



**GOVERNMENT OF THE DISTRICT OF COLUMBIA  
DEPARTMENT OF GENERAL SERVICES**

**Invitation for Bid**

**Department of Health - 300 KW Industrial Diesel Engine Drive Generator  
and a 160 KVA UPS Unit**

**This procurement is set-aside for those businesses certified as Certified Business  
Enterprise by the Department of Small and Local Business Development**

**June 6, 2013**

**Bid Opening:**

**June 11, 2013 2:00 p.m. EST**

**Bid Delivery Location:**

**Department of General Services  
Attention: JW Lanum  
Frank D. Reeves Center  
2000 14<sup>th</sup> Street, NW  
Contracts & Procurement Division, 8<sup>th</sup> Floor  
Washington, DC 20009**

**Contact:**

**Jim Marshall  
Supervisory Contract Specialist  
Department of General Services  
Contracts and Procurement Division  
2000 14<sup>th</sup> Street, NW 8<sup>th</sup> Floor  
Washington, D.C. 20009  
[james.marshall@dc.gov](mailto:james.marshall@dc.gov)  
Phone: (202) 727-7119**

**Solicitation Number:**

**DCAM-13-NC-0158**

## **Executive Summary**

The Department of General Services (“Department” or “DGS”) on behalf of the Department of Health (DOH) is issuing this Invitation for Bids for a Contractor to provide and install a 300 KW Industrial Diesel Engine Drive Generator and a 160 KVA UPS unit with 400 amp barker. This procurement is set-aside for those businesses certified as Certified Business Enterprise by the Department of Small and Local Business Development.

### **A.1 Form of Contract**

The Form of Contract is provided as Attachment A. Bidders should carefully review the Form of Contract when submitting their bid. To the extent there are any inconsistencies between this IFB and the Form of Contract, the Form of Contract shall prevail. Bidders are further advised that they are required to submit their bids premised upon entering into a contract that is substantially similar to the Form of Contract provided in Attachment A.

### **A.2 Contractor Fees**

The contract awarded pursuant to this Invitation for Bid (IFB) will be a fixed price type of contract. Bidders are required to bid firm fixed unit prices as described in Attachment B Offer Letter. The firm fixed unit prices will be the Bidder's sole compensation for work performed. Bidders shall submit with their bid an Offer Letter in substantially the form of Attachment B on the Bidder's letterhead setting forth their unit price for the required services.

### **A.3 Attachments**

Attachment A Form of Contract  
Attachment B Offer Letter  
Attachment C Standard Contract Provisions  
Attachment D Tax Affidavit  
Attachment E U.S. Department of Labor Wage Rate Determination Schedule  
Attachment F Living Wage Act Notice and Fact Sheet  
Attachment G First Source Employment Agreement

## **SECTION B DESCRIPTION/SPECIFICATIONS/WORK STATEMENT**

### **B.1 Introduction**

The Department of General Services ("Department" or "DGS") on behalf of the District's Department of Health (DOH) is seeking a Contractor to provide and install a 300 KW Industrial Diesel Engine Drive Generator and a 160 KVA UPS unit with 400 amp breaker.

### **B.2 Requirements**

The Contractor shall provide the following:

#### **B.2.1 300 KW Industrial Diesel Engine Drive Generator in Weatherproof Enclosure**

The Contractor shall provide a 300 KW industrial General diesel engine drive generator or equal within four (4) weeks from date of award. The Contractor shall install the generator within three (3) days of delivery of the generator. The Contractor shall provide and install the new generator in accordance with the following requirements:

- a) Install the new generator on the existing concrete pad provided at 899 North Capitol Street NE;
- b) Provide grounding for the generator;
- c) Provide the new generator with a minimum of 48 hours of fuel with SB fuel with stub up;
- d) Install power panel in the space as directed to extend the wiring from the existing panel to install power for the generator; and
- e) Conduct testing with the Contracting Officer's Technical Representative (COTR).

#### **B.2.2 160 KVA UPS Unit**

The Contractor shall provide a Powerware #9390-160 model 160 KVA UPS unit with 400 amp breaker or equal within four (4) weeks from date of award. The Contractor shall install the UPS unit within three (3) days of delivery of the UPS unit. The Contractor shall provide and install the new UPS unit in accordance with the following requirements:

- a) Install the new UPS at 899 North Capitol Street NE;
- b) Install power panel in the space as directed to extend the wiring from the existing panel to install power for the UPS unit;
- c) Install five (5) 50 amp breakers to feed Telco Closets on Floors 1 - 5 and reconnect feeders; and
- d) Conduct testing with the Contracting Officer's Technical Representative (COTR)

### **B.2.3 Permits and Drawings**

The Contractor shall provide any permits and M & E Drawings required pertaining to all electrical aspects and modifications to the existing electrical plans within two (2) weeks of contract award.

### **B.2.4 Clean Up and Removal of Debris and Material**

The Contractor shall provide for the clean-up and removal of all debris and material used for the installation of the new Generator and UPS Unit including the removal of the existing Generator and UPS Unit.

### **B.2.5 Warranty**

The Contractor shall provide a two (2) year warranty for the new Generator and UPS Unit.

### **B.2.6 Deliverables**

<b>Deliverable</b>	<b>Due Date</b>
300 KW Industrial Diesel Engine Drive Generator as described in B.2.1	Within four (4) weeks from date of award
160 KVA UPS Unit as described in B.2.2	Within four (4) weeks from date of award
Permits and Drawings as described in B.2.3	Within two (2) weeks from date of award

## **SECTION C ECONOMIC INCLUSION**

### **C.1 Preferences for Small, Local, and Disadvantaged Business Enterprises**

**C.1.1 General:** Under the provisions of the Small, Local, and Disadvantaged Business Enterprise Development and Assistance Act of 2005, D.C. Law 16-33 (codified at D.C. Code § 2-218.01 et seq.), preferences shall be given to Bidders that are certified by the Department of Small and Local Business Development as being a small business enterprise, having resident business ownership, having a longtime resident business, being a local business enterprise, being a disadvantaged business enterprise, being a local business enterprise with its principal office located in an enterprise zone, being a veteran-owned business enterprise, or being a local manufacturing business enterprise. (A copy of the certification acknowledgment letter must be submitted with the Bidder's Submission.) In accordance with these laws, the following preferences shall be awarded in evaluating bids:

- a) Three percent for a small business enterprise;
- b) Five percent for a resident-owned business;
- c) Ten percent for a longtime resident business;
- d) Two percent for a local business enterprise;
- e) Two percent for a local business enterprise with its principal office located in an enterprise zone; and
- f) Two percent for a disadvantaged business enterprise.

Bidders may qualify for more than one of these categories above, however the maximum preference is 12%.

**C.1.2 Information:** For information regarding the application process, contact the Department of Small and Local Business Development at the following address or telephone number:

Department of Small and Local Business  
Development One Judiciary Square Building  
441 4th Street, NW, 9th Floor  
Washington, DC 20001  
(202) 727-3900 (Telephone Number)  
(202) 724-3786 (Facsimile Number)

**C.2 SLDBE Participation**

A Bidder responding to this solicitation must submit with its bid, a notarized statement detailing any subcontracting plan required by law. Submissions responding to this IFB shall be deemed nonresponsive and shall be rejected if the Bidder fails to submit a subcontracting plan that is required by law. For contracts in excess of \$250,000, at least 35% of the dollar volume of the contract shall be subcontracted with a firm certified by Department of Small and Local Business Development as (i) a local business enterprise; (ii) a small business enterprise; (iii) a disadvantaged business enterprise; (iv) a resident owned business; (v) a longtime business owner; or (vi) a local business enterprise with its principal office located in an enterprise zone.

**C.3 Residency Hiring Requirements for Contractors and Subcontractors**

At least fifty-one percent (51%) of the Bidder's staff and each subcontractor's employees hired after the Bidder enters into a contract with the Department, or after such subcontractor enters into a contract with the Bidder, to perform the required work, shall be residents of the District of Columbia.

The Bidder shall comply with subchapter III of Chapter II of Title 1, and subchapter II of Chapter II of Title 1 of the D.C. Code, as amended, and all successor acts thereto and the

rules and regulations promulgated thereunder. The Bidder and all subcontractors with contracts in the amount of \$300,000 or more shall be required to comply with the above-referenced D.C. Code provisions, and such compliance requires the Contractor to: (i) enter into a First Source Employment Agreement with the D.C. Department of Employment Services ("DOES") upon execution of the contract; (ii) submit an executed First Source Agreement to DOES prior to beginning work on the project; (iii) make best efforts to hire at least 51% District residents for all new jobs created by the project; (iv) list all employment vacancies with DOES; and (v) submit monthly compliance reports to DOES by the 10<sup>th</sup> of each month, or as required by the D.C. Code.

## **SECTION D: COMPLIANCE REQUIREMENTS**

### **D.1 Licensing, Accreditation and Registration**

The Contractor and all of its subcontractors shall comply with all applicable District of Columbia, state, and federal licensing, accreditation, and registration requirements and standards necessary for the performance of the contract.

### **D.2 Service Contract Act**

The Contractor shall agree that the work performed under this Contract shall be subject to Service Contract Wage Rates. The Contractor is bound by Wage Determination No. 05-2103, Revision No. 12 dated June 13, 2012 issued by the U.S. Department of Labor in accordance with the Service Contract Act of 1965, as amended (41 U.S.C. 351) (Attachment E).

### **D. 3 Reserved**

### **D.4 Reserved**

### **D. 5 Residency Hiring Requirements for Contractors and Subcontractors**

At least fifty-one percent (51%) of the Contractor's Team and every subcontractor's employees hired after the Contractor enters into a contract with the Department, or after such subcontractor enters into a contract with the Contractor, to work on this project, shall be residents of the District of Columbia.

The Contractor and each of its subcontractors shall include as part of their submission a completed First Source Employment Agreement (Attachment G) including a list of current employees that will be assigned to the project, the date that they were hired and whether or not they live in the District of Columbia.

The Contractor shall comply with subchapter III of Chapter II of Title 1, and subchapter II of Chapter II of Title 1 of the D.C. Code, as amended and all successor acts thereto and the rules and regulations promulgated thereunder. The Contractor and all subcontractors and suppliers with contracts in the amount of \$300,000 or more shall be required to comply with the following: (i) enter into a First Source Employment Agreement (Attachment G) with the D.C. Department of Employment Services ("DOES") upon execution of the contract; (ii) submit an executed First Source Agreement to DOES prior to beginning work on the project; (iii) make best efforts to hire at least 51% District residents for all new jobs created by the project; (iv) list all employment vacancies with DOES; and (v) submit monthly compliance reports to DOES by the 10th of each month, or as required by the D.C. Code.

#### **D.6 Standard Contract Provisions**

The Standard Contract Provisions for use with District of Columbia Government Supplies and Services Contracts (Attachment C) dated March, 2007 is incorporated as part of the contract resulting from this solicitation.

#### **D.7 Way to Work Act**

The Contractor shall agree that the work performed under this Contract shall be subject to the District of Columbia Living Wage Act (Attachment F).

### **SECTION E EVALUATION AND AWARD CRITERIA**

#### **E.1 Method of Award**

This procurement is being conducted in accordance with Title 27 of the District's Municipal Regulations (DCMR), Section 4720, and Sealed Bidding.

**E.1.1** The Department reserves the right to accept/reject any/all bids resulting from this solicitation. The Contracting Officer may reject all bids or waive any minor informality or irregularity in bids received whenever it is determined that such action is in the best interest of the District.

**E.1.2** The contract will be awarded to the qualified bidder whose bid is responsible and responsive to the IFB and is most advantageous to the Department considering only price and the price-related evaluation factors identified in the IFB.

#### **E.2 Preparation and Submission of Bids**

**E.2.1** Bidders shall submit a signed original and three (3) copies. The District will not accept

a facsimile copy of a bid as an original bid. All items accepted by the District, all pages of the Invitation for Bids (IFB), all attachments and all documents containing the bidder's offer shall constitute the formal contract. The Bidder shall ensure the following is included in their submission:

- a) Offer Letter (Attachment B)
- b) Completed Tax Certification Affidavit (Attachment D)
- c) Completed First Source Employment Agreement (Attachment G)
- d) Certificate of Insurance as described in Section H

**E.2.2** Each bid shall be submitted as specified in Section F.1 in a sealed envelope conspicuously marked: "Bid in Response to Solicitation No. DCAM-13-NC-0158 for DOH Generator and UPS Unit".

- a) The original bid shall govern if there is a variance between the original bid and the copy submitted by the bidder. Each bidder shall return the complete solicitation and completed attachments as its bid.
- b) The District may reject as non-responsive any bid that fails to conform in any material respect to the IFB.
- c) Bidders shall make no changes to the requirements set forth in the solicitation.

## **SECTION F: BID SUBMISSION**

### **F.1 Delivery or Mailing of Submissions**

Submissions should be delivered or mailed to:

Department of General Services  
Attention JW Lanum  
Associate Director/Contracting Officer  
2000 14th Street, NW 8th Floor  
Washington, DC 20009

### **F.2 Date and Time for Receiving Submissions**

Submissions shall be received no later than 2:00 p.m. on June 11, 2013. The Bidder assumes the sole responsibility for timely delivery of its Submission, regardless of the method of delivery.

### **F.3 Bid Form**

Each Bidder shall submit an Offer Letter substantially in the form of Attachment B. Material deviations, in the opinion of the Department, from the bid form shall



be sufficient to render the bid non-responsive.

#### **F.4 Tax Affidavit**

Each Bidder must submit a tax affidavit provided in Attachment D. In order to be eligible for this procurement, Bidders must be in full compliance with their tax obligations to the District of Columbia Government.

### **SECTION G: BIDDING PROCEDURES & PROTESTS**

#### **G.1 Contact Person**

For information regarding this IFB please contact:

Jim Marshall  
Contract Specialist  
2000 14th Street, NW, 8th Floor  
Washington, D.C. 20009  
Phone: (202) 727-7119  
[james.marshall@dc.gov](mailto:james.marshall@dc.gov)

#### **G.2 Explanations to Prospective Bidders**

Each Bidder should carefully examine this IFB and any and all amendments, addenda or other revisions, and thoroughly familiarize itself with all requirements prior to proffering a submission. Should a Bidder find discrepancies or ambiguities in, or omissions from, the IFB and amendments, addenda or revisions, or otherwise desire an explanation or interpretation of the IFB, any amendments, addenda, or revisions, it must submit questions, requests for interpretation or correction in writing. Written questions, requests for interpretation or correction should be directed to James Marshall no later than **2:00 p.m. on June 7, 2013**. The person making the request shall be responsible for prompt delivery.

Any information given to a Bidder concerning the solicitation shall be furnished promptly to all other Bidders as an amendment or addendum to this IFB if in the sole discretion of the Department that information is necessary in proffering submissions or if the lack of it would be prejudicial to any other prospective Bidders. Oral explanations or instructions given before the award of the contract shall not be binding.

### **G.3 Examination of Submissions**

Bidders are expected to examine the requirements and all instructions (including all amendments, addenda, attachments and exhibits) in this IFB. Failure to do so shall be at the sole risk of the Bidder and may result in disqualification.

### **G.4 Late Submissions: Modifications**

- a. Notwithstanding any other provisions of this IFB to the contrary, a late modification of an otherwise successful submission which makes its terms more favorable to the Department may be considered at any time it is received and may be accepted.
- b. Submissions shall be irrevocable and remain in full force and effect for a period not less than 120 days after receipt of submissions.

### **G.5 Retention of Submissions**

All submissions shall be retained by the Department and therefore shall not be returned to the Bidders. With the exception of proprietary financial information, the submissions shall become the property of the Department and the Department shall have the right to distribute or use such information as it determines.

### **G.6 No Compensation for Preparation of Submissions**

The Department shall not bear or assume any financial obligations or liabilities regarding the preparation of any submissions submitted in response to this IFB, or prepared in connection therewith, including, but without limitation, any submissions, statements, reports, data, information, materials or other documents or items.

### **G.7 Bid Opening**

Bids received will be opened Monday June 10, 2013 at 2:00pm.

### **G.8 Rejection of Submissions**

The Department reserves the right, in its sole discretion:

- a. To cancel this solicitation or reject all submissions.
- b. To reject submissions that fail to prove the Bidder's responsibility.
- c. To reject submissions that contain conditions and/or contingencies that the Department's sole judgment, make the submission indefinite, incomplete. Otherwise non-responsive, or otherwise

unacceptable for award.

- d. To waive minor irregularities in any submission provided such waiver does not result in an unfair advantage to any Bidder.
- e. To take any other action within the applicable Procurement Regulations or law.

## **G.9 Protests**

To reject the submission of any Bidder that has submitted a false or misleading statement, affidavit or certification in connection with such submission.

## **G.10 Limitation of Authority**

Only a person with prior written authority from the CCO shall have the express, implied, or apparent authority to alter, amend, modify, or waive any clauses or conditions of the contract. Furthermore, any alteration, amendment, modification, or waiver of any clause or condition of this IFB is not effective or binding unless made in writing and signed by the CEO or its authorized representative.

## **SECTION H: INSURANCE REQUIREMENTS**

### **H.1 Required Insurance**

The Contractor shall maintain the following types of insurance throughout the life of the contract:

**H.1.1 Commercial General Public Liability Insurance ("Liability Insurance")** against liability for bodily injury and death and property damage, such Liability Insurance to be in an amount not less than Five Million Dollars (\$5,000,000) for liability for bodily injury, death and property damage arising from any one occurrence and Five Million Dollars (\$5,000,000) from the aggregate of all occurrences within each policy year.

**H.1.2 Workers' Compensation and Employers Liability** coverage providing statutory benefits for all persons employed by the Contractor, or its Contractors and subcontractors at or in connection with the Work.

**H.1.3 Automobile Liability**, including Hired and Non-Owned Auto Liability in the amount of at least one-million (\$1,000) for each occurrence for bodily injury and property damage.

### **H.2 Additional Insured**

Each insurance policy shall be issued in the name of the Contractor and shall name the Department and the District of Columbia as additional insured and shall not be cancelable or reduced without thirty (30) days prior written notice to the Department.

### **H.3 Waiver of Subrogation**

All such insurance shall contain a waiver of subrogation against the Department and the District of Columbia, and their respective agents.

### **H.4 Strength of Insurer**

All insurance shall be placed with insurers that are reasonably acceptable to the Department and with an A.M. Best's rating of not less than A- (Excellent) and a surplus size of not less than XV. All such insurers shall be licensed/approved to do business in the District of Columbia.

**Attachment A**  
**Form of Contract**

**CONTRACT TO PROVIDE A 300 KW INDUSTRIAL DIESEL ENGINE DRIVE  
GENERATOR AND A 160 KVA UPS UNIT**

**DCAM-13-NC-0158**

This contract to provide a **300 KW INDUSTRIAL DIESEL ENGINE DRIVE GENERATOR AND A 160 KVA UPS UNIT Agreement**) is entered into by and between the **DISTRICT OF COLUMBIA GOVERNMENT** acting by and through its **DEPARTMENT OF GENERAL SERVICES** ("Department") and ("Contractor").

**WITNESSETH:**

**WHEREAS**, the District's Department of Health (DOH) has a need for a 300 KW Industrial Diesel Engine Drive Generator and a 160 KVA UPS Unit

**WHEREAS**, the Department, on behalf of the DOH, issued an Invitation for Bid (IFB) to engage a contractor to provide a 300 KW Industrial Diesel Engine Drive Generator and a 160 KVA UPS Unit

**WHEREAS**, the Contractor submitted a bid in response to the IFB, and the Department wishes to engage the Contractor to provide the requested goods and services.

**WHEREAS**, the Department desires that the contract be for a period of two (2) months

**NOW, THEREFORE**, in consideration of the foregoing and for good and valuable consideration, the sufficiency and adequacy of which is hereby acknowledged, the parties to this Agreement agree as follows:

**AGREEMENT:**

**SECTION 1 SCOPE OF WORK**

**1. Introduction**

The Department of General Services ("Department" or "DGS") on behalf of the District's Department of Health (DOH) is seeking a Contractor to provide and install a 300 KW Industrial Diesel Engine Drive Generator and a 160 KVA UPS unit with 400 amp barker.

**1.2 Requirements**

The Contractor shall provide the following:

**1.2.1 300 KW Industrial Diesel Engine Drive Generator in Weatherproof Enclosure**

The Contractor shall provide a 300 KW industrial Genera diesel engine drive generator or equal within four (4) weeks from date of award. The Contractor shall install the generator within three (3) days of delivery of the generator. The Contractor shall provide and install the new generator in accordance with the following requirements:

- a) Install the new generator on the existing concrete pad provide at 899 North Capitol Street NE;
- b) Provide grounding for the generator;
- c) Provide the new generator with a minimum of 48 hours of fuel with SB fuel with stub up;
- d) Install power panel in the space as directed to extend the wiring from the existing panel to install power for the generator; and
- e) Conduct testing with the Contracting Officer's Technical Representative (COTR).

#### **1.2.2 160 KVA UPS Unit**

The Contractor shall provide a Powerware #9390-160 model 160 KVA UPS unit with 400 amp breaker or equal within four (4) weeks from date of award. The Contractor shall install the UPS unit within three (3) days of delivery of the UPS unit. The Contractor shall provide and install the new UPS unit in accordance with the following requirements:

- a) Install the new UPS at 899 North Capitol Street NE;
- b) Install power panel in the space as directed to extend the wiring from the existing panel to install power for the UPS unit;
- c) Install five (5) 50 amp breaker to feed Telco Closets on Floors 1 - 5 and reconnect feeders; and
- d) Conduct testing with the Contracting Officer's Technical Representative (COTR)

#### **1.2.3 Permits and Drawings**

The Contractor shall provide any permits and M & E Drawings required pertaining to all electrical aspects and modifications to the existing electrical plans within two (2) weeks of contract award.

#### **1.2.4 Clean Up and Removal of Debris and Material**

The Contractor shall provide for the clean-up and removal of all debris and material used

for the installation of the new Generator and UPS Unit including the removal of the existing Generator and UPS Unit.

#### **1.2.5 Warranty**

The Contractor shall provide a two (2) year warranty for the new Generator and UPS Unit.

#### **1.2.6 Deliverables**

<b>Deliverable</b>	<b>Due Date</b>
300 KW Industrial Diesel Engine Drive Generator as described in 1.2.1	Within four (4) weeks from date of award
160 KVA UPS Unit as described in 1.2.2	Within four (4) weeks from date of award
Permits and Drawings as described in 1.2.3	Within two (2) weeks from date of award

### **SECTION 2 CONTRACT TYPE.**

This is a fixed price contract.

### **SECTION 3 CONTRACTOR'S COMPENSATION.**

**Section 3.1 Payments.** The Contractor will be paid the fixed unit price provided in Exhibit A, Offer Letter.

**Section 3.2 Subcontracted Work.** The Contractor will be permitted to subcontract work in order to meet LSDBE utilization requirements, as described in Section 8 of the Agreement. However, for all work, the Contractor's compensation will be based on the rates established in Exhibit A, and thus, such rates must be sufficient to cover the cost of subcontracting.

**Section 3.3 Not-to-Exceed Amount.** The not to exceed amount of the base period of performance is X .

### **SECTION 4 CONTRACT TERM.**

**Section 4.1 Base Term.** The base term of the contract shall be for a period of two (2) months from date of award.

### **SECTION 5 CHANGES.**

**Section 5.1 Changes Authorized.** The Department may, without invalidating the contract, and without notice to or approval of any surety, order changes in the Work, including additions, deletions or modifications. Any such change must be conveyed by the Department to the Contractor via written Change Directive or Change Order.



The Contracting Officer is the only person authorized to approve changes in any of the requirements of this contract. The Contractor shall not comply with any order, directive or request that changes or modifies the requirements of this contract, unless issued in writing and signed by the Contracting Officer.

In the event the Contractor effects any change at the instruction or request of any person other than the Contracting Officer, the change will be considered to have been made without authority and no adjustment will be made in the contract price to cover any cost increase incurred as a result thereof.

**Section 5.2 Executed Change Directive/Order Required.** Changes to the Agreement may be made only by a written Change Directive or Change Order executed by the Department.

**Section 5.3 Prompt Notice.** In the event the Contractor encounters a situation which the Contractor believes to be a change to this Agreement, the Contractor shall provide the Department with prompt written notice of such event and the possible impact such event could have on cost and schedule. All such notices shall be given promptly, considering the then applicable situations, but in no event more than ten (10) calendar days after encountering the situation. The Contractor acknowledges that the failure to provide such notice in a timely manner could limit or eliminate the Department's ability to mitigate such events, and thus, the Contractor shall not be entitled to an adjustment in the event it fails to provide prompt notice. The Contractor shall include provisions similar to this provision in all of its subcontracts.

**Section 5.4 Executed Change Orders Final.** The Contractor agrees that any Change Order executed by the Department and the Contractor constitutes its full and final adjustment for all costs, delays, disruptions, inefficiencies, cumulative impact, accelerations, schedule impacts, or other consequences arising from the change in question, whether a Change Directive, or a Change Event, or from any claimed cumulative effect of changes made to the date of the Change Order, and that no further adjustments in compensation or time shall be sought or made with respect to the Change Directive or the Change Event giving rise to the Change Order.

**Section 5.5 Failure to Agree.** If the Contractor claims entitlement to a change in the Agreement, and the Department does not agree that any action or event has occurred to justify any change in time or compensation, or if the parties fail to agree upon the appropriate amount of the adjustment in time or compensation, the Department will unilaterally make such changes, if any, to the Agreement, as it determines are appropriate pursuant to the terms of this Agreement. The Contractor shall proceed with the Work and the Department's directives, without interruption or delay, and may make a claim of this Agreement. Failure to proceed due to a dispute over a change request shall constitute a material breach of the Agreement and entitle the Department to all available remedies for such breach, including, without limitation, termination for default.

**Section 5.6 Contracting Officer (CO).** Contracts will be entered into and signed on behalf of the District only by contracting officers. The contact information for the Contracting Officer is:

Brian Hanlon  
Chief Contracting Officer

D.C. Department of General Services  
2000 14th Street, NW, 8th Floor  
Washington, DC 20009

**Section 5.7 Contracting Officer's Technical Representative (COTR).** The contact information of the COTR is:

Gerald Massengill, CPM  
Facility Management & Operations Officer  
Department of Health  
899 North Capitol Street, NE  
Washington, DC 20009  
Phone: (202) 442-9205  
e-mail: [gerald.massengill@dc.gov](mailto:gerald.massengill@dc.gov)

The COTR is responsible for general administration of the contract and advising the Contracting Officer as to the Contractor's compliance or noncompliance with the contract. The COTR has the responsibility of ensuring that the work conforms to the requirements of this contract and such other responsibilities and authorities as may be specified in the contract. These include:

- (a) Keeping the CO fully informed of any technical or contractual difficulties encountered during the performance period and advising the CO of any potential problem areas under the contract;
- (b) Coordinating site entry for Contractor personnel, if applicable;
- (c) Reviewing invoices for completed work and recommending approval by the CO if the Contractor's prices and costs are consistent with the contractual amounts and progress is satisfactory and commensurate with the rate of expenditure;
- (d) Reviewing and approving invoices for deliverables to ensure receipt of goods and services. This includes the timely processing of invoices and vouchers in accordance with the District's payment provisions; and
- (e) Maintaining a file that includes all contract correspondence, modifications, records of inspections (site, data, and equipment) and invoice or vouchers.

## **SECTION 6 PAYMENTS.**

**Section 6.1 Invoicing.** The Contractor shall bill the DOH the unit price provided in Exhibit A.

**Section 6.2 Right to Withhold Payments.** The Department will notify the Contractor within fifteen (15) calendar days after receiving any invoice for payment, of any defect in the invoice or the work which may result in the Office's declining to pay all or a part of the invoiced amount. The Department may withhold payment from the Contractor, in whole or part, as appropriate, if

- (a) The work is defective and such defects have not been remedied; or
- (b) The Department has determined that the Contractor's progress has fallen behind the Project Schedule, and the Contractor fails, within ten calendar days of the Office's

- written demand, to provide the Office with a realistic and acceptable plan to recover the delays; or
- (c) The Contractor has failed to pay subcontractors promptly or has made false or inaccurate certifications that payments to Subcontractors or Suppliers are due or have been made; or
  - (d) The Contractor is otherwise in substantial breach of the Contract (including, without limitation, failures to comply with the Economic Inclusion Requirements in Section 8 of this Contract).

## **SECTION 7 SUBCONTRACTS.**

The Contractor shall advise the Department and obtain the Department's written approval of any subcontractor. The Contractor shall ensure all subcontractors comply with Sections 8, Economic Inclusion, Section 9, Insurance Requirements, and Section 10 Miscellaneous Provisions. In addition, the Contractor shall be responsible for all work performed by the subcontractors and shall assume the risk of the subcontractors' non-performance.

**Section 7.1 Subcontracting Plan.** Once the plan(s) is approved by the CO, changes to the plan will only occur with the prior written approval of the CO. Each subcontracting plan shall include the following:

- (a) A description of the goods and services to be provided by SBEs or, if insufficient qualified SBEs are available, by any certified business enterprises;
- (b) A statement of the dollar value of the price that pertains to the subcontracts to be performed by the SBEs or, if insufficient qualified SBEs are available, by any certified business enterprises; and
- (c) The names and addresses of all proposed subcontractors who are SBEs or, if insufficient SBEs are available, who are certified business enterprises;

The approved Subcontracting Plans are provided in Exhibit H.

**Section 7.2 Subcontracting Plan Compliance Reporting.** The Contractor shall submit to the CO no later than the 21<sup>st</sup> of each month following execution of the contract, a Subcontracting Plan Compliance Report to verify its compliance with the subcontracting requirements for the preceding month. The monthly subcontracting plan compliance report shall include the following information:

- (a) The dollar amount of the contract or procurement;
- (b) A brief description of the goods procured or the services contracted for;
- (c) The name of the business enterprise from which the goods were procured or services contracted;
- (d) Whether the subcontractors to the contract are currently certified business enterprises; and
- (e) The dollar percentage of the contract awarded to SBEs, or if insufficient SBEs, to other certified business enterprises;

## **SECTION 8 ECONOMIC INCLUSION.**

### **Section 8.1 Certified Business Enterprises**

**Section 8.1.1** If required by law, the Contractor shall subcontract at least 35% of the dollar volume to certified small business enterprises; provided, however, that the costs of materials, goods and supplies shall not be counted towards the 35% subcontracting requirements unless such materials, goods and supplies are purchased from the certified small business enterprises.

**Section 8.1.2** If there are insufficient qualified small business enterprises to completely fulfill the requirement of Section 8.1.1, then the subcontracting may be satisfied by subcontracting 35% of the dollar volume to any certified business enterprises; provided, however, that all reasonable efforts shall be made to ensure that qualified small business enterprises are significant participants in the overall subcontracting work.

**Section 8.1.3** The Contractor if certified as a small, local or disadvantage business enterprise shall not be required to comply with the provisions of Sections 8.1.1 and 8.1.2.

### **Section 8.2 First Source Agreement**

**Section 8.2.1** Upon execution of the Contract, the Contractor shall enter into a First Source Employment Agreement (Exhibit E) with the Department of Employment Services. The agreement shall include a list of the Contractor's and subcontractor's current employees that will be assigned to the Contract, the date they were hired and whether or not they live in the District of Columbia.

**Section 8.2.2** The Contractor and its constituent entities shall comply with subchapter III of Chapter 11 Title 1, and subchapter II of Chapter 11 of Title 1 of the D.C. Code, and all successor acts thereto and the rules and regulations promulgated thereunder. The Contractor and all member firms and Subcontractors shall execute a First Source Agreement with the District of Columbia Department of Employment Services ("DOES") prior to beginning Work at the Project site.

**Section 8.2.3** The Contractor shall maintain detailed records relating to the general hiring of District of Columbia and community residents. At least fifty-one percent (51%) of the Contractor's Team and every subcontractor's employees hired after the Contractor enters into this contract with the Department, or after such subcontractor enters into a contract with the Contractor, to work on this project, shall be residents of the District of Columbia.

**Section 8.2.4** The Contractor shall be responsible for: (i) including the provisions of this Section 8.2 in all subcontracts; (ii) collecting the information required in this Section 8.2 from its Subcontractors; and (iii) providing the information collected from its Subcontractors in any reports required to be submitted by the Contractor pursuant to this Section 8.2.

**Section 8.3 Certified Payroll Report.** The Contractor shall submit a Certified Payroll Report for the Contractor and each subcontractor monthly. The Contractor shall review

payrolls for discrepancies prior to submission to DGS. The Contractor shall submit one comprehensive package along with a Statement of Compliance to Rosemary Suggs-Evans in accordance with the schedule provided in Exhibit F.

The Department of General Services (DGS)  
Contracts and Procurement Division  
2000 14<sup>th</sup> Street NW 8<sup>th</sup> Floor  
Washington DC 20009  
Attn: Rosemary Suggs-Evans

In the event that there has been no work performed during a given week, the Certified Payroll Report shall be annotated: "No work" for that week or a Non-Performance Statement must be submitted.

## **SECTION 9 INSURANCE**

**Section 9.1 Required Insurance.** The Contractor will be required to maintain the following types of insurance throughout the life of the contract.

- (a) Commercial general public liability insurance ("Liability Insurance") against liability for bodily injury and death and property damage, such Liability Insurance written on an occurrence basis to be in an amount not less than Two Million Dollars (\$2,000,000.00) for liability for bodily injury, death and property damage arising from any one occurrence and Two Million Dollars (\$2,000,000.00) from the aggregate of all occurrences within each policy year. The policies shall contain blanket contractual coverage (including coverage for the indemnity clauses to be provided under the Agreement) and completed operations coverage (for 3 years beyond completion of the Work).
- (b) Workers' compensation providing statutory benefits for all persons employed by the Contractor, or its contractors and subcontractors at or in connection with the Work.
- (c) Automobile Liability, including Hired and Non-Owned Auto Liability in the amount of at least One Million Dollars (\$1,000,000.00) for each occurrence for bodily injury and property damage.
- (d) Professional Liability Insurance (Errors & Omissions). The Contractor shall provide Professional Liability Insurance (Errors and Omissions) to cover liability resulting from any error or omission in the performance of professional services under this Contract. The policy shall provide limits of One Million Dollars (\$1,000,000) for each occurrence for each wrongful act and One Million Dollars (\$1,000,000) from the annual aggregate.

**Section 9.2 Additional Insured.** Each insurance policy shall be issued in the name of the Contractor and shall name as additional insured the Department and the District of Columbia and shall not be cancelable or reduced without thirty (30) calendar days' prior written notice to the Department.

**Section 9.3 Waiver of Subrogation.** All such insurance shall contain a waiver of subrogation against the Department and its respective agents.

**Section 9.4 Strength of Insurer.** All insurance shall be placed with insurers that are reasonably acceptable to the Department and with an A.M. Best's rating of not less than a then-current rating of "A-" or better and a financial size category of Class XV or higher. All such insurers shall be licensed/approved to do business in the District of Columbia.

## **SECTION 10 MISCELLANEOUS PROVISIONS.**

**Section 10.1 Governing Law.** This contract, and any disputes arising out of or related to this contract, shall be governed by, and construed in accordance with, the laws of the District of Columbia.

**Section 10.2 Standard Contract Provisions.** The Standard Contract Provisions for use with District of Columbia Government Supplies and Services Contracts dated March, 2007 are incorporated as part of the contract (Exhibit B).

**Section 10.3 Service Contract Act Provision.** The Contractor agrees that the work performed under this Agreement shall be subject to the Service Contract Act and the Living Wage Act. The wage rates applicable to this Project are attached as Exhibit C.

**Section 10.4 Living Wage Act.** The Contractor agrees that the work performed under this Agreement shall be subject to the District of Columbia Living Wage Act Exhibit D.

**Section 10.5 False Claims Act.** The Contractor shall be governed by all laws and regulations prohibiting false or fraudulent statements and claims made to the government, including the prescriptions set forth in D.C. Code § 2-308.14.

**Section 10.6 Americans With Disabilities Act Of 1990 (ADA).** During the performance of this contract, the Contractor and any of its subcontractors shall comply with the ADA. The ADA makes it unlawful to discriminate in employment against a qualified individual with a disability. See 42 U.S.C. §12101 et seq.

**Section 10.7 Anti-Deficiency Act.** The Department's obligations and responsibilities under the terms of the Agreement are and shall remain subject to the provisions of (i) the federal Anti-Deficiency Act, 31 U.S.C. §§1341, 1342, 1349, 1350, 1351, (ii) the D.C. Code 47-105, (iii) the District of Columbia Anti-Deficiency Act, D.C. Code §§ 47-355.01 - 355.08, as the foregoing statutes may be amended from time to time, and (iv) Section 446 of the District of Columbia Home Rule Act. The Agreement shall not constitute an indebtedness of the Department, nor shall it constitute an obligation for which the Department is obligated to levy or pledge any form of taxation, or for which the Department has levied or pledged any form of taxation. **IN ACCORDANCE WITH § 446 OF THE HOME RULE ACT, D.C. CODE § 1-204.46, NO DISTRICT OF COLUMBIA OFFICIAL IS AUTHORIZED TO OBLIGATE OR EXPEND ANY AMOUNT UNDER THE AGREEMENT UNLESS SUCH AMOUNT HAS BEEN APPROVED, IS LAWFULLY AVAILABLE AND APPROPRIATED BY ACT OF CONGRESS.**

**Section 10.8 Freedom Of Information Act.** The District of Columbia Freedom of Information Act, at D.C. Official Code § 2-532 (a-3), requires the District to make available for inspection and copying any record produced or collected pursuant to a District contract with a private contractor to perform a public function, to the same extent as if the record were maintained by the agency on whose behalf the contract is made. If the Contractor receives a request for such information, the Contractor shall immediately send the request to the COTR designated in Section 5.7 who will provide the request to the FOIA Officer for the agency with programmatic responsibility in accordance with the D.C. Freedom of Information Act. If the agency with programmatic responsibility receives a request for a record maintained by the Contractor pursuant to the contract, the COTR will forward a copy to the Contractor. In either event, the Contractor is required by law to provide all responsive records to the COTR within the timeframe designated by the COTR. The FOIA Officer for the agency with programmatic responsibility will determine the releasability of the records. The District will reimburse the Contractor for the costs of searching and copying the records in accordance with D.C. Official Code §2-532 and Chapter 4 of Title 1 of the D.C. Municipal Regulations.

**Section 10.9 Retention of Records: Inspections and Audits.** The Contractor shall maintain books, records, documents and other evidence directly pertinent to performance under the Agreement in accordance with generally accepted professional practice and appropriate accounting procedures and practices consistently applied in effect on the date of execution of the Contract.

The Contractor shall also maintain the financial information and data used in the preparation and support of the costing and cost summary submitted to the Department and the required cost submissions in effect on the date of execution of the Department.

The Department, the District of Columbia government, the Comptroller General of the United States, the U.S. Department of Labor and any of their authorized representatives shall have access to the books, records, documents and other evidence held, owned or maintained by the Contractor for the purpose of inspection, audit and copying during normal business hours and upon advance written notice to the Contractor. The Contractor shall provide proper facilities for such access and inspection.

The Contractor agrees to include the wording of this Section in all its subcontracts in excess of Five Thousand Dollars (\$5,000.00) that directly relate to Project performance.

Audits conducted pursuant to this Section will be in accordance with generally accepted auditing standards with the results prepared in accordance with generally accepted accounting principles and established procedures and guidelines of the applicable reviewing or audit agency.

The Contractor agrees to the disclosure of all information and reports, resulting from access to records, to any authorized representative of the Department. Where the audit concerns the Contractor, the auditing agency will afford the Contractor an opportunity for an audit exit conference and an opportunity to comment on the pertinent portions of the draft audit report. The final audit report will include the written comments, if any, of the audited parties.

The Contractor shall preserve all records described herein from the effective date of the Agreement through completion and for a period of seven (7) years after a final settlement. In addition, those records which relate to any dispute, appeal or litigation, or the settlement of claims arising out of such performance, or costs or items to which an audit exception has been taken, shall be maintained and made available until seven (7) years after the date of resolution of such dispute, appeal, litigation, claim or exception.

#### **Section 10.10 Gratuities and Officers Not to Benefit Provisions.**

**Section 10.10.1** If it is found, after notice and hearing, by the Department that gratuities (in the form of entertainment, gifts, payment, offers of employment or otherwise) were offered or given by the Contractor, or any agent or representative of the Contractor, to any official, employee or agent of the Department or the District with a view toward securing the Agreement or any other contract or securing favorable treatment with respect to the awarding or amending, or the making of any determinations with respect to the performance of the Contract, the Department may, by written notice to the Contractor, terminate the right of the Contractor to proceed under the Agreement and may pursue such other rights and remedies provided by law and under the Agreement.

**Section 10.10.2** In the event the Agreement is terminated as provided in the Standard Contract Provisions (Exhibit B), the Department shall be entitled:

- (a) To pursue the same remedies against the Contractor as it could pursue in the event of a breach of the Agreement by the Contractor; and
- (b) As a penalty in addition to any other damages to which it may be entitled by law, to exemplary damages in an amount (as determined by the Department which shall be not less than ten times the costs incurred by the Contractor in providing any such gratuities to any such officer or employee.
- (c) No member of, nor delegate to Congress, Mayor or City Council Member, nor officer nor employee of the District, nor officer nor employee of the Department shall be admitted to any share or part of the Agreement or to any benefit that may arise therefrom, and all agreements entered into by the Contracting Officer of the Department in which he or any officer or employee of the Department shall be personally interested as well as all agreements made by the Department in which the Mayor or City Council Member or officer or employee of the District shall be personally interested shall be void and no payments shall be made on any such contracts by the Department or by any officer thereof; but this provision shall not be construed or extend to the agreement if the share of or benefit to the member of, or delegate to Congress, Mayor or City Council Member, or officer or employee of the District is de minimis.

**Section 10.11 Ethical Standards For Office's Employees And Former Employees.** The Department expects the Contractor to observe the highest ethical standards and to comply with all applicable law, rules, and regulations governing ethical conduct or conflicts of interest. Neither the Contractor, nor any person associated with the Contractor, shall provide (or seek reimbursement for) any gift, gratuity, favor, entertainment, loan or other thing of value to any employee of the District or the Department not in conformity with applicable law, rules or regulations. The



Contractor shall not engage the services of any person or persons in the employment of the Department or the District for any Work required, contemplated or performed under the Contract. The Contractor may not assign to any former Department or District employee or agent who has joined the Contractor's firm any matter on which the former employee, while in the employ of the Department, had material or substantial involvement in the matter. The Contractor may request a waiver to permit the assignment of such matters to former Department personnel on a case-by-case basis. The Contractor shall include in every subcontract a provision substantially similar to this section so that such provisions shall be binding upon each Subcontractor or vendor.

**Section 10.12 Publicity.** The Contractor shall at all times obtain the prior written approval from the Contracting Officer before the Contractor, any of its officers, agents, employees or subcontractors, either during or after expiration or termination of the contract, make any statement, or issue any material, for publication through any medium of communication, bearing on the work performed or data collected under this contract.

**Section 10.13 Severability.** In the event any one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provision of this Agreement, and in lieu of each such invalid, illegal or unenforceable provision, there shall be added automatically as a part of this Agreement a provision as similar in terms to such invalid, illegal or unenforceable provision as may be possible and be valid, legal and enforceable; each part of this Agreement is intended to be severable.

## **SECTION 11                      ORDER OF PRECEDENCE**

A conflict in language shall be resolved by giving precedence to the document in the highest order of priority that contains language addressing the issue in question. The following documents are incorporated into the contract and made a part of the contract in the following order of precedence:

- (a) An applicable Court Order, if any
- (b) Contract DCAM-13-NC-0158 document
- (c) Contract DCAM-13-NC-0158 Exhibits in the order they appear
- (d) IFB DCAM-13-NC-0158 as amended
- (e) Contractor's Bid dated June 10, 2013

## **SECTION 12                      EXHIBITS**

Exhibit A	Offer Letter dated June 10, 2013
Exhibit B	Standard Contract Provisions
Exhibit C	Service Contract Act
Exhibit D	Living Wage Act
Exhibit E	First Source Employment Agreement
Exhibit F	FY2013 Certified Payroll Schedule for DGS Service Contracts

**IN WITNESS WHEREOF**, each of the parties to this Agreement has caused this Agreement to be signed by its duly authorized representative.

**DEPARTMENT OF GENERAL SERVICES**

**By:** \_\_\_\_\_  
**Name:** Brian Hanlon  
**Title:** Director  
**Date:** \_\_\_\_\_

**CONTRACTOR**

**By:** \_\_\_\_\_  
**Name:** \_\_\_\_\_  
**Title:** \_\_\_\_\_  
**Date:** \_\_\_\_\_

**Attachment B**  
Offer Letter

Offeror's Letterhead

Attachment B  
Offer Letter

Date

District of Columbia Department of General Services  
2000 14<sup>th</sup> Street, NW, 8<sup>th</sup> Floor  
Washington, DC 20009

Attention: Mr. Brian J. Hanlon  
Director

Reference: Invitation for Bid DCAM-13-NC-0158  
Department of Health Generator and UPS Unit

Dear Mr. Hanlon:

On behalf of Insert Offeror's Legal Name (the "Bidder"), I am pleased to submit this bid in response to the Department of General Services' (the "Department" or "DGS") Invitation or Bid (IFB) to provide a 300 KW Industrial Diesel Engine Drive Generator and a 160 KVA UPS Unit for the Department of Health located at 899 North Capitol Street, NE. The Bidder has reviewed the IFB and the attachments thereto, any addenda thereto, and the proposed Form of Contract (collectively, the "Bid Documents") and has conducted such due diligence and analysis as the Bidder, in its sole judgment, has deemed necessary in order to submit its bid in response to the IFB. The Bidder's submission and the Fixed Unit Prices are based on the Bid Documents as issued and assume no material alteration of the terms of the Bid Documents.

Insert Offeror's Legal Name bid is as follows:

The Fixed Prices are \$\_\_\_\_\_ to provide and install a 300 KW Industrial Diesel Engine Drive Generator as described in Sections B.1.2.1, B.1.2.3, B.1.2.4, B.1.2.5, and B.1.2.6 and \$\_\_\_\_\_ to provide and install 160 KVA UPS Unit as described in Sections B.1.2.2, B.1.2.3, B.1.2.4, B.1.2.5, and B.1.2.6

The Offeror acknowledges and understands that the Fixed Unit Prices are firm, fixed prices and intended to be Offeror's sole compensation for the services required.

The Bidder's submission is based on and subject to the following conditions:

1. The Bidder agrees to hold its bid open for a period of at least one hundred twenty (120) days after the date of the bid.
2. Assuming the Bidder is selected by the Department and the Bidder agrees to enter into a contract with the Department on the terms and conditions described in the Bid Documents within one (1) day of the notice of the award.

3. Both the Bidder and the undersigned represent and warrant that the undersigned has the full legal authority to submit this bid form and bind the Bidder to the terms of the Offeror's Bid. The Bidder further represents and warrants that no further action or approval must be obtained by the Bidder in order to authorize the terms of the Offeror's Proposal.
4. The Bidder hereby represents and warrants that they have not: (i) colluded with any other group or person that is submitting a bid in response to the IFB in order to fix or set prices; (ii) acted in such a manner so as to discourage any other group or person from submitting a bid in response to the IFB; or (iii) otherwise engaged in conduct that would violate applicable anti-trust law.
5. There are no requested changes to the Form of Contract:
6. The Bidder hereby certifies that neither it nor any of its subcontractors have entered into any agreement (written or oral) that would prohibit any contractor, subcontractor or subconsultant that is certified by the District of Columbia Office of Department of Small and Local Business Enterprises as a Local, Small, Resident Owned or Disadvantaged Business Enterprise (collectively, "LSDBE Certified Companies") from participating in the work if another company is awarded the contract.
7. This Bidder's submission including the Bidder's Fixed Unit Price is being submitted on behalf of (Insert Offeror)

Sincerely,

By: \_\_\_\_\_

Name: \_\_\_\_\_

Its: \_\_\_\_\_

**Attachment C**  
Standard Contract Provisions

**GOVERNMENT OF THE DISTRICT OF COLUMBIA**

**STANDARD CONTRACT PROVISIONS**

**FOR USE WITH**

**DISTRICT OF COLUMBIA GOVERNMENT**  
**SUPPLIES AND SERVICES CONTRACTS**

**March 2007**

**OFFICE OF CONTRACTING AND PROCUREMENT**  
**SUITE 700 SOUTH**  
**441 4<sup>th</sup> STREET, NW**  
**WASHINGTON, DC 20001**

**STANDARD CONTRACT PROVISIONS**  
**TABLE OF CONTENTS**

1. <i>Covenant Against Contingent Fees:</i> .....	1
2. <i>Shipping Instructions – Consignment:</i> .....	1
3. <i>Patents:</i> .....	1
4. <i>Quality:</i> .....	1
5. <i>Inspection Of Supplies:</i> .....	1
6. <i>Inspection Of Services:</i> .....	3
7. <i>Waiver:</i> .....	4
8. <i>Default:</i> .....	4
9. <i>Indemnification:</i> .....	6
10. <i>Transfer:</i> .....	6
11. <i>Taxes:</i> .....	6
12. <i>Appointment of Attorney:</i> .....	7
13. <i>District Employees Not To Benefit:</i> .....	7
14. <i>Disputes:</i> .....	7
15. <i>Changes:</i> .....	10
16. <i>Termination For Convenience Of The District:</i> .....	10
17. <i>Recovery Of Debts Owed The District:</i> .....	14
18. <i>Retention and Examination Of Records:</i> .....	14
19. <i>Non-Discrimination Clause:</i> .....	14
20. <i>Definitions:</i> .....	16
21. <i>Health And Safety Standards:</i> .....	16
22. <i>Appropriation Of Funds:</i> .....	16
23. <i>Buy American Act:</i> .....	16
24. <i>Service Contract Act of 1965:</i> .....	17
25. <i>Cost and Pricing Data:</i> .....	23
26. <i>Multiyear Contract:</i> .....	25
27. <i>Termination Of Contracts For Certain Crimes And Violations:</i> .....	25



March (2007)

**1. Covenant Against Contingent Fees:**

The Contractor warrants that no person or selling agency has been employed or retained to solicit or secure the contract upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, excepting bona fide employees or bona fide established commercial or selling agencies maintained by the Contractor for the purpose of securing business. For breach or violation of this warranty, the District will have the right to terminate the contract without liability or in its discretion to deduct from the contract price or consideration or otherwise recover, the full amount of the commission, percentage, brokerage, or contingent fee.

**2. Shipping Instructions – Consignment:**

Unless otherwise specified in this Invitation for Bids/Request for Proposals, each case, crate, barrel, package, etc., delivered under this contract must be plainly stencil marked or securely tagged, stating the Contractor's name, contract number and delivery address as noted in the contract. In case of carload lots, the Contractor shall tag the car, stating Contractor's name and contract number. Any failure to comply with these instructions will place the material at the Contractor's risk. Deliveries by rail, water, truck or otherwise, must be within the working hours and in ample time to allow for unloading and if necessary, the storing of the materials or supplies before closing time. Deliveries at any other time will not be accepted unless specific arrangements have been previously made with the contact person identified in the contract at the delivery point.

**3. Patents:**

The Contractor shall hold and save the District, its officers, agents, servants, and employees harmless from liability of any nature or kind, including costs, expenses, for or on account of any patented or unpatented invention, article, process, or appliance, manufactured or used in the performance of this contract, including their use by the District, unless otherwise specifically stipulated in the contract.

**4. Quality:**

Contractor's workmanship shall be of the highest grade, and all materials provided under this Contract shall be new, of the best quality and grade, and suitable in every respect for the purpose intended.

**5. Inspection Of Supplies:**

- (a) Definition. "Supplies," as used in this clause, includes, but is not limited to raw materials, components, intermediate assemblies, end products, and lots of supplies.
- (b) The Contractor shall be responsible for the materials or supplies covered by this contract until they are delivered at the designated point, but the Contractor shall bear all risk on rejected materials or supplies after notification of rejection. Upon the Contractor's failure to cure within ten (10) days after date of notification, the District may return the rejected materials or supplies to the Contractor at the Contractor's risk and expense.
- (c) The Contractor shall provide and maintain an inspection system acceptable to the District covering supplies under this contract and shall tender to the District for acceptance only supplies that have been inspected in accordance with the inspection system and have been found by the Contractor to be in conformity with contract requirements. As part of the

March (2007)

system, the Contractor shall prepare records evidencing all inspections made under the system and the outcome. These records shall be kept complete and made available to the District during contract performance and for as long afterwards as the contract requires. The District may perform reviews and evaluations as reasonably necessary to ascertain compliance with this paragraph. These reviews and evaluations shall be conducted in a manner that will not unduly delay the contract work. The right of review, whether exercised or not, does not relieve the Contractor of the obligations under this contract.

- (d) The District has the right to inspect and test all supplies called for by the contract, to the extent practicable, at all places and times, including the period of manufacture, and in any event before acceptance. The District will perform inspections and tests in a manner that will not unduly delay the work. The District assumes no contractual obligation to perform any inspection and test for the benefit of the Contractor unless specifically set forth elsewhere in the contract.
- (e) If the District performs inspection or test on the premises of the Contractor or subcontractor, the Contractor shall furnish, and shall require subcontractors to furnish, without additional charge, all reasonable facilities and assistance for the safe and convenient performance of these duties. Except as otherwise provided in the contract, the District will bear the expense of District inspections or tests made at other than Contractor's or subcontractor's premises; provided, that in case of rejection, the District will not be liable for any reduction in the value of inspection or test samples.
  - (1) When supplies are not ready at the time specified by the Contractor for inspection or test, the Contracting Officer may charge to the Contractor the additional cost of inspection or test.
  - (2) Contracting Officer may also charge the Contractor for any additional cost of inspection or test when prior rejection makes re-inspection or retest
- (f) The District has the right either to reject or to require correction of nonconforming supplies. Supplies are nonconforming when they are defective in material or workmanship or otherwise not in conformity with contract requirements. The District may reject nonconforming supplies with or without disposition instructions.
- (g) The Contractor shall remove supplies rejected or required to be corrected. However, the Contracting Officer may require or permit correction in place, promptly after notice, by and at the expense of the Contractor. The Contractor shall not tender for acceptance corrected or rejected supplies without disclosing the former rejection or requirement for correction, and when required, shall disclose the corrective action taken.
- (h) If the Contractor fails to remove, replace, or correct rejected supplies that are required to be replaced or corrected within ten (10) days, the District may either (1) by contract or otherwise, remove, replace or correct the supplies and charge the cost to the Contractor or (2) terminate the contract for default. Unless the Contractor corrects or replaces the supplies within the delivery schedule, the Contracting Officer may require their delivery and make an equitable price reduction. Failure to agree to a price reduction shall be a dispute.

March (2007)

- (i) If this contract provides for the performance of District quality assurance at source, and if requested by the District, the Contractor shall furnish advance notification of the time (i) when Contractor inspection or tests will be performed in accordance with the terms and conditions of the contract, and (ii) when the supplies will be ready for District inspection.
- (j) The District request shall specify the period and method of the advance notification and the District representative to whom it shall be furnished. Requests shall not require more than 2 business days of advance notification if the District representative is in residence in the Contractor's plant, nor more than 7 business days in other instances.
- (k) The District will accept or reject supplies as promptly as practicable after delivery, unless otherwise provided in the contract. District failure to inspect and accept or reject the supplies shall not relieve the Contractor from responsibility, nor impose liability upon the District, for non-conforming supplies.
- (l) Inspections and tests by the District do not relieve the Contractor of responsibility for defects or other failures to meet contract requirements discovered before acceptance. Acceptance shall be conclusive, except for latent defects, fraud, gross mistakes amounting to fraud, or as otherwise provided in the contract.
- (m) If acceptance is not conclusive for any of the reasons in subparagraph (l) hereof, the District, in addition to any other rights and remedies provided by law, or under provisions of this contract, shall have the right to require the Contractor (1) at no increase in contract price, to correct or replace the defective or nonconforming supplies at the original point of delivery or at the Contractor's plant at the Contracting Officer's election, and in accordance with a reasonable delivery schedule as may be agreed upon between the Contractor and the Contracting Officer; provided, that the Contracting Officer may require a reduction in contract price if the Contractor fails to meet such delivery schedule, or (2) within a reasonable time after receipt by the Contractor of notice of defects or noncompliance, to repay such portion of the contract as is equitable under the circumstances if the Contracting Officer elects not to require correction or replacement. When supplies are returned to the Contractor, the Contractor shall bear the transportation cost from the original point of delivery to the Contractor's plant and return to the original point when that point is not the Contractor's plant. If the Contractor fails to perform or act as required in (1) or (2) above and does not cure such failure within a period of 10 days (or such longer period as the Contracting Officer may authorize in writing) after receipt of notice from the Contracting Officer specifying such failure, the District will have the right to return the rejected materials at Contractor's risk and expense or contract or otherwise to replace or correct such supplies and charge to the Contractor the cost occasioned the District thereby.

**6. Inspection Of Services:**

- (a) Definition. "Services" as used in this clause includes services performed, workmanship, and material furnished or utilized in the performance of services.
- (b) The Contractor shall provide and maintain an inspection system acceptable to the District covering the services under this contract. Complete records of all inspection work performed by the Contractor shall be maintained and made available to the District during contract performance and for as long afterwards as the contract requires.

March (2007)

- (c) The District has the right to inspect and test all services called for by the contract, to the extent practicable at all times and places during the term of the contract. The District will perform inspections and tests in a manner that will not unduly delay the work.
- (d) If the District performs inspections or tests on the premises of the Contractor or subcontractor, the Contractor shall furnish, without additional charge, all reasonable facilities and assistance for the safety and convenient performance of these duties.
- (e) If any of the services do not conform to the contract requirements, the District may require the Contractor to perform these services again in conformity with contract requirements, at no increase in contract amount. When the defects in services cannot be corrected by performance, the District may require the Contractor to take necessary action to ensure that future performance conforms to contract requirements and reduce the contract price to reflect value of services performed.
- (f) If the Contractor fails to promptly perform the services again or take the necessary action to ensure future performance in conformity to contract requirements, the District may (1) by contract or otherwise, perform the services and charge the Contractor any cost incurred by the District that is directly related to the performance of such services, or (2) terminate the contract for default.

7. **Waiver:**

The waiver of any breach of the contract will not constitute a waiver of any subsequent breach thereof, or a waiver of the contract.

8. **Default:**

- (a) The District may, subject to the provisions of paragraph (c) below, by written notice of default to the Contractor, terminate the whole or any part of this contract in any one of the following circumstances:
  - (1) If the Contractor fails to make delivery of the supplies or to perform the services within the time specified herein or any extension thereof; or
  - (2) If the Contractor fails to perform any of the other provisions of this contract, or so fails to make progress as to endanger performance of this contract in accordance with its terms, and in either of these two circumstances does not cure such failure within a period of ten (10) days (or such longer period as the Contracting Officer may authorize in writing) after receipt of notice from the Contracting Officer specifying such failure.
- (b) In the event the District terminates this contract in whole or in part as provided in paragraph (a) of this clause, the District may procure, upon such terms and in such manner as the Contracting Officer may deem appropriate, supplies or service similar to those so terminated, and the Contractor shall be liable to the District for any excess costs for similar supplies or services; provided, that the Contractor shall continue the performance of this contract to the extent not terminated under the provisions of this clause.

March (2007)

- (c) Except with respect to defaults of subcontractors, the Contractor shall not be liable for any excess costs if the failure to perform the contract arises out of causes beyond the control and without the fault or negligence of the Contractor. Such causes may include, but are not restricted to, acts of God or of the public enemy, acts of the District or Federal Government in either their sovereign or contractual capacity, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, and unusually severe weather; but in every case the failure to perform must be beyond the control and without fault or negligence of the Contractor. If the failure to perform is caused by the default of the subcontractor, and if such default arises out of causes beyond the control of both the Contractor and the subcontractor, and without the fault or negligence of either of them, the Contractor shall not be liable for any excess cost for failure to perform, unless the supplies or services to be furnished by the subcontractor were obtainable from other sources in sufficient time to permit the Contractor to meet the required delivery schedule.
- (d) If this contract is terminated as provided in paragraph (a) of this clause, the District, in addition to any other rights provided in this clause, may require the Contractor to transfer title and deliver to the District, in the manner and to the extent directed by the Contracting Officer, (i) completed supplies, and (ii) such partially completed supplies and materials, parts, tools, dies, jigs, fixtures plans, drawing information, and contract rights (hereinafter called "manufacturing materials") as the Contractor has specifically produced or specifically acquired for the performance of such part of this contract as has been terminated; and the Contractor shall, upon direction of the Contracting Officer, protect and preserve property in possession of the Contractor in which the District has an interest. Payment for completed supplies delivered to and accepted by the District will be at the contract price. Payment for manufacturing materials delivered to and accepted by the District will be at the contract price. Payment for manufacturing materials delivered to and accepted by the District and for the protection and preservation of property shall be in an amount agreed upon by the Contractor and Contracting Officer; failure to agree to such amount shall be a dispute concerning a question of fact within the meaning of the clause of this contract entitled "Disputes". The District may withhold from amounts otherwise due the Contractor for such completed supplies or manufacturing materials such sum as the Contracting Officer determines to be necessary to protect the District against loss because of outstanding liens or claims of former lien holders.
- (e) If, after notice of termination of this contract under the provisions of this clause, it is determined for any reason that the Contractor was not in default under the provisions of this clause, or that the default was excusable under the provisions of this clause, the rights and obligations of the parties shall, if the contract contains a clause providing for termination of convenience of the District, be the same as if the notice of termination had been issued pursuant to such clause. See Clause 20 for Termination for Convenience of the District.
- (f) The rights and remedies of the District provided in this clause shall not be exclusive and are in addition to any other rights and remedies provided by law or under this contract.
- (g) As used in paragraph (c) of this clause, the terms "subcontractor(s)" means subcontractor(s) at any tier.

March (2007)

**9. Indemnification:**

The Contractor agrees to defend, indemnify and hold harmless the District, its officers, agencies, departments, agents, and employees (collectively the "District") from and against any and all claims, losses, liabilities, penalties, fines, forfeitures, demands, causes of action, suits, costs and expenses incidental thereto (including cost of defense and attorneys' fees), resulting from, arising out of, or in any way connected to activities or work performed by the Contractor, Contractor's officers, employees, agents, servants, subcontractors, or any other person acting for or by permission of the Contractor in performance of this Contract. The Contractor assumes all risks for direct and indirect damage or injury to the property or persons used or employed in performance of this Contract. The Contractor shall also repair or replace any District property that is damaged by the Contractor, Contractor's officers, employees, agents, servants, subcontractors, or any other person acting for or by permission of the Contractor while performing work hereunder.

The indemnification obligation under this section shall not be limited by the existence of any insurance policy or by any limitation on the amount or type of damages, compensation or benefits payable by or for Contractor or any subcontractor, and shall survive the termination of this Contract. The District agrees to give Contractor written notice of any claim of indemnity under this section. Additionally, Contractor shall have the right and sole authority to control the defense or settlement of such claim, provided that no contribution or action by the District is required in connection with the settlement. Monies due or to become due the Contractor under the contract may be retained by the District as necessary to satisfy any outstanding claim which the District may have against the Contractor.

**10. Transfer:**

No contract or any interest therein shall be transferred by the parties to whom the award is made; such transfer will be null and void and will be cause to annul the contract.

**11. Taxes:**

- (a) The Government of the District of Columbia is exempt from and will not pay Federal Excise Tax, Transportation Tax, and the District of Columbia Sales and Use Taxes.
- (b) Tax exemption certificates are no longer issued by the District for Federal Excise Tax. The following statement may be used by the supplier when claiming tax deductions for Federal Excise Tax exempt items sold to the District.

"The District of Columbia Government is Exempt from Federal Excise Tax – Registration No. 52-73-0206-K, Internal Revenue Service, Baltimore, Maryland."

Exempt From Maryland Sales Tax, Registered With The Comptroller Of The Treasury As Follows:

- a) Deliveries to Glenn Dale Hospital – Exemption No. 4647
- b) Deliveries to Children's Center – Exemption No. 4648
- c) Deliveries to other District Departments or Agencies – Exemption No. 09339

"The District of Columbia Government is Exempt from Sales and Use Tax – Registration No. 53-600, The District of Columbia Office of Tax and Revenue."

March (2007)

**12. Appointment of Attorney:**

- (a) The bidder/offeror or contractor (whichever the case may be) does hereby irrevocably designate and appoint the Clerk of the District of Columbia Superior Court and his successor in office as the true and lawful attorney of the Contractor for the purpose of receiving service of all notices and processes issued by any court in the District of Columbia, as well as service of all pleadings and other papers, in relation to any action or legal proceeding arising out of or pertaining to this contract or the work required or performed hereunder.
- (b) The bidder/offeror or contractor (whichever the case may be) expressly agrees that the validity of any service upon the said Clerk as herein authorized shall not be affected either by the fact that the contractor was personally within the District of Columbia and otherwise subject to personal service at the time of such service upon the said Clerk or by the fact that the contractor failed to receive a copy of such process, notice or other paper so served upon the said Clerk provided the said Clerk shall have deposited in the United States mail, registered and postage prepaid, a copy of such process, notice, pleading or other paper addressed to the bidder/offeror or contractor at the address stated in this contract.

**13. District Employees Not To Benefit:**

Unless a determination is made as provided herein, no officer or employee of the District will be admitted to any share or part of this contract or to any benefit that may arise therefrom, and any contract made by the Contracting Officer or any District employee authorized to execute contracts in which they or an employee of the District will be personally interested shall be void, and no payment shall be made thereon by the District or any officer thereof, but this provision shall not be construed to extend to this contract if made with a corporation for its general benefit. A District employee shall not be a party to a contract with the District and will not knowingly cause or allow a business concern or other organization owned or substantially owned or controlled by the employee to be a party to such a contract, unless a written determination has been made by the head of the procuring agency that there is a compelling reason for contracting with the employee, such as when the District's needs cannot reasonably otherwise be met. (DC Procurement Practices Act of 1985, D.C. Law 6-85, D.C. Official Code, section 2-310.01, and Chapter 18 of the DC Personnel Regulations)

The Contractor represents and covenants that it presently has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of its services hereunder. The Contractor further covenants not to employ any person having such known interests in the performance of the contract.

**14. Disputes:**

- A. All disputes arising under or relating to this contract shall be resolved as provided herein.
- B. Claims by a Contractor against the District.

Claim, as used in Section B of this clause, means a written assertion by the Contractor seeking, as a matter of right, the payment of money in a sum certain, the adjustment or interpretation of contract terms, or other relief arising under or relating to this contract. A claim arising under a contract, unlike a claim relating to that

March (2007)

contract, is a claim that can be resolved under a contract clause that provides for the relief sought by the claimant.

- (a) All claims by a Contractor against the District arising under or relating to a contract shall be in writing and shall be submitted to the Contracting Officer for a decision. The contractor's claim shall contain at least the following:
  - (1) A description of the claim and the amount in dispute;
  - (2) Any data or other information in support of the claim;
  - (3) A brief description of the Contractor's efforts to resolve the dispute prior to filing the claim; and
  - (4) The Contractor's request for relief or other action by the Contracting Officer.
- (b) The Contracting Officer may meet with the Contractor in a further attempt to resolve the claim by agreement.
- (c) For any claim of \$50,000 or less, the Contracting Officer shall issue a decision within sixty (60) days from receipt of a written request from a Contractor that a decision be rendered within that period.
- (d) For any claim over \$50,000, the Contracting Officer shall issue a decision within ninety (90) days of receipt of the claim. Whenever possible, the Contracting Officer shall take into account factors such as the size and complexity of the claim and the adequacy of the information in support of the claim provided by the Contractor.
- (e) The Contracting Officer's written decision shall do the following:
  - (1) Provide a description of the claim or dispute;
  - (2) Refer to the pertinent contract terms;
  - (3) State the factual areas of agreement and disagreement;
  - (4) State the reasons for the decision, including any specific findings of fact, although specific findings of fact are not required and, if made, shall not be binding in any subsequent proceeding;
  - (5) If all or any part of the claim is determined to be valid, determine the amount of monetary settlement, the contract adjustment to be made, or other relief to be granted;
  - (6) Indicate that the written document is the contracting officer's final decision; and
  - (7) Inform the Contractor of the right to seek further redress by appealing the decision to the Contract Appeals Board.
- (f) Any failure by the Contracting Officer to issue a decision on a contract claim within the required time period will be deemed to be a denial of the claim, and will authorize the commencement of an appeal to the Contract Appeals Board as authorized by D.C. Official Code § 2-309.04.



March (2007)

- (g) (1) If a Contractor is unable to support any part of his or her claim and it is determined that the inability is attributable to a material misrepresentation of fact or fraud on the part of the Contractor, the Contractor shall be liable to the District for an amount equal to the unsupported part of the claim in addition to all costs to the District attributable to the cost of reviewing that part of the Contractor's claim.
- (2) Liability under paragraph (g)(1) shall be determined within six (6) years of the commission of the misrepresentation of fact or fraud.
- (h) The decision of the Contracting Officer shall be final and not subject to review unless an administrative appeal or action for judicial review is timely commenced by the Contractor as authorized by D. C. Official Code § 2-309.04.
- (i) Pending final decision of an appeal, action, or final settlement, a Contractor shall proceed diligently with performance of the contract in accordance with the decision of the Contracting Officer.

C. Claims by the District against a Contractor

- (a) Claim as used in Section C of this clause, means a written demand or written assertion by the District seeking, as a matter of right, the payment of money in a sum certain, the adjustment of contract terms, or other relief arising under or relating to this contract. A claim arising under a contract, unlike a claim relating to that contract, is a claim that can be resolved under a contract clause that provides for the relief sought by the claimant.
- (b) (1) All claims by the District against a Contractor arising under or relating to a contract shall be decided by the Contracting Officer.
- (2) The Contracting Officer shall send written notice of the claim to the Contractor. The Contracting Officer's written decision shall do the following:
  - (a) Provide a description of the claim or dispute;
  - (b) Refer to the pertinent contract terms;
  - (c) State the factual areas of agreement and disagreement;
  - (d) State the reasons for the decision, including any specific findings of fact, although specific findings of fact are not required and, if made, shall not be binding in any subsequent proceeding;
  - (e) If all or any part of the claim is determined to be valid, determine the amount of monetary settlement, the contract adjustment to be made, or other relief to be granted;
  - (f) Indicate that the written document is the Contracting Officer's final decision; and
  - (g) Inform the Contractor of the right to seek further redress by appealing the decision to the Contract Appeals Board.

March (2007)

- (3) The decision shall be supported by reasons and shall inform the Contractor of its rights as provided herein.
- (4) The authority contained in this clause shall not apply to a claim or dispute for penalties or forfeitures prescribed by statute or regulation which another District agency is specifically authorized to administer, settle, or determine.
- (5) This clause shall not authorize the Contracting Officer to settle, compromise, pay, or otherwise adjust any claim involving fraud.
- (c) The decision of the Contracting Officer shall be final and not subject to review unless an administrative appeal or action for judicial review is timely commenced by the Contractor as authorized by D.C. Official Code §2-309.04.
- (d) Pending final decision of an appeal, action, or final settlement, the Contractor shall proceed diligently with performance of the contract in accordance with the decision of the Contracting Officer.

**15. Changes:**

The Contracting Officer may, at any time, by written order, and without notice to the surety, if any, make changes in the contract within the general scope hereof. If such change causes an increase or decrease in the cost of performance of this contract, or in the time required for performance, an equitable adjustment shall be made. Any claim for adjustment under this paragraph must be asserted within ten (10) days from the date the change is offered; provided, however, that the Contracting Officer, if he or she determines that the facts justify such action, may receive, consider and adjust any such claim asserted at any time prior to the date of final settlement of the contract. If the parties fail to agree upon the adjustment to be made, the dispute shall be determined as provided in the Disputes clause at Section 18. Nothing in this clause shall excuse the Contractor from proceeding with the contract as changed.

**16. Termination For Convenience Of The District:**

- (a) The District may terminate performance of work under this contract in whole or, from time to time, in part if the Contracting Officer determines that a termination is in the District's interest. The Contracting Officer shall terminate by delivering to the Contractor a Notice of Termination specifying the extent of termination and effective date.
- (b) After receipt of a Notice of Termination, and except as directed by the Contracting Officer, the Contractor shall immediately proceed with the following obligations, regardless of any delay in determining or adjusting any amounts due under this clause:
  - (1) Stop work as specified in the notice.
  - (2) Place no further subcontracts or orders (referred to as subcontracts in this clause) for materials, services, or facilities, except as necessary to complete the continued portion of the contract.
  - (3) Terminate all contracts to the extent they relate to the work terminated.

March (2007)

- (4) Assign to the District, as directed by the Contracting Officer, all rights, title and interest of the Contractor under the subcontracts terminated, in which case the District will have the right to settle or pay any termination settlement proposal arising out of those terminations.
  - (5) With approval or ratification to the extent required by the Contracting Officer, settle all outstanding liabilities and termination settlement proposals arising from the termination of subcontracts. The approval or ratification will be final for purposes of this clause.
  - (6) As directed by the Contracting Officer, transfer title and deliver to the District (i) the fabricated or unfabricated parts, work in process, completed work, supplies, and other materials produced or acquired for the work terminated, and (ii) the completed or partially completed plans, drawings, information, and other property that, if the contract has been completed, would be required to be furnished to the District.
  - (7) Complete performance of the work not terminated.
  - (8) Take any action that may be necessary, or that the Contracting Officer may direct, for the protection and preservation of the property related to this contract that is in the possession of the Contractor and in which the District has or may acquire an interest.
  - (9) Use its best efforts to sell, as directed or authorized by the Contracting Officer, any property of the types referred to in subparagraph (6) above; provided, however, that the Contractor (i) is not required to extend credit to any purchaser and (ii) may acquire the property under the conditions prescribed by, and at prices approved by, the Contracting Officer. The proceeds of any transfer or disposition will be applied to reduce any payments to be made by the District under this contract, credited to the price or cost of the work, or paid in any other manner directed by the Contracting Officer.
- (c) After the expiration of ninety (90) days (or such longer period as may be agreed to) after receipt by the Contracting Officer of acceptable inventory schedules, the Contractor may submit to the Contracting Officer a list, certified as to quantity and quality of termination inventory not previously disposed of excluding items authorized for disposition by the Contracting Officer. The Contractor may request the District to remove those items or enter into an agreement for their storage. Within fifteen (15) days, the District will accept title to those items and remove them or enter into a storage agreement. The Contracting Officer may verify the list upon removal of the items, or if stored, within forty five (45) days from submission of the list, and shall correct the list, as necessary, before final settlement.
- (d) After termination, the Contractor shall submit a final termination settlement proposal to the Contracting Officer in the form and with the certification prescribed by the Contracting Officer. The Contractor shall submit the proposal promptly, but no later than one year from the effective date of termination, unless extended in writing by the Contracting Officer upon written request of the Contractor within this one year period. However, if the Contracting Officer determines that the facts justify it, a termination settlement proposal may be

received and acted on after one year or any extension. If the Contractor fails to submit the proposal within the time allowed, the Contracting Officer may determine, on the basis of information available, the amount, if any, due to the Contractor because of the termination and shall pay the amount determined.

- (e) Subject to paragraph (d) above, the Contractor and the Contracting Officer may agree upon the whole or any part of the amount to be paid because of the termination. The amount may include a reasonable allowance for profit on work done. However, the agreed amount, whether under this paragraph (e) or paragraph (f) below, exclusive of costs shown in subparagraph (f)(3) below, may not exceed the total contract price as reduced by (1) the amount of payment previously made and (2) the contract price of work not terminated. The contract shall be amended, and the Contractor paid the agreed amount. Paragraph (f) below shall not limit, restrict, or affect the amount that may be agreed upon to be paid under this paragraph.
- (f) If the Contractor and the Contracting Officer fail to agree on the whole amount to be paid because of the termination work, the Contracting Officer shall pay the Contractor the amounts determined by the Contracting Officer as follows, but without duplication of any amounts agreed on under paragraph (e) above:
  - (1) The contract price for completed supplies or services accepted by the District (or sold or acquired under subparagraph (b)(9) above) not previously paid for, adjusted for any saving of freight and other charges.
  - (2) The total of :
    - (i) The costs incurred in the performance of the work terminated, including initial costs and preparatory expense allocable thereto, but excluding any costs attributable to supplies or services paid or to be paid under subparagraph (f)(1) above;
    - (ii) The cost of settling and paying termination settlement proposals under terminated subcontracts that are properly chargeable to the terminated portion of the contract if not included in subparagraph (f)(1) above; and
    - (iii) A sum, as profit on subparagraph f(1) above, determined by the Contracting Officer to be fair and reasonable; however, if it appears that the Contractor would have sustained a loss on the entire contract had it been completed, the Contracting Officer shall allow no profit under this subparagraph (iii) and shall reduce the settlement to reflect the indicated rate of loss.
  - (3) The reasonable cost of settlement of the work terminated, including-
    - (i) Accounting, legal, clerical, and other expenses reasonably necessary for the preparation of termination settlement proposals and supporting data;
    - (ii) The termination and settlement of subcontractors (excluding the amounts of such settlements); and

March (2007)

- (iii) Storage, transportation, and other costs incurred, reasonably necessary for the preservation, protection, or disposition of the termination inventory.
- (g) Except for normal spoilage, and except to the extent that the District expressly assumed the risk of loss, the Contracting Officer shall exclude from the amounts payable to the Contractor under paragraph (f) above, the fair value as determined by the Contracting Officer, of property that is destroyed, lost, stolen, or damaged so as to become undeliverable to the District or to a buyer.
- (h) The Contractor shall have the right of appeal, under the Disputes clause, from any determination made by the Contracting Officer under paragraphs (d), (f) or (j), except that if the Contractor failed to submit the termination settlement proposal within the time provided in paragraph (d) or (j), and failed to request a time extension, there is no right of appeal. If the Contracting Officer has made a determination of the amount due under paragraph (d), (f) or (j), the District will pay the Contractor (1) the amount determined by the Contracting Officer if there is no right of appeal or if no timely appeal has been taken, or (2) the amount finally determined on an appeal.
- (i) In arriving at the amount due the Contractor under this clause, there shall be deducted:
  - (1) All unliquidated advances or other payments to the Contractor under the termination portion of the contract;
  - (2) Any claim which the District has against the Contractor under this contract; and
  - (3) The agreed price for, or the proceeds of sale of, materials, supplies, or other things acquired by the Contractor or sold under the provisions of this clause and not recovered by or credited to the District.
- (j) If the termination is partial, the Contractor may file a proposal with the Contracting Officer for an equitable adjustment of the price(s) of the continued portion of the contract. The Contracting Officer shall make any equitable adjustment agreed upon. Any proposal by the Contractor for an equitable adjustment under this clause shall be requested within ninety (90) days from the effective date of termination unless extended in writing by the Contracting Officer.
- (k) (1) The District may, under the terms and conditions it prescribes, make partial payments and payments against costs incurred by the Contractor for the terminated portion of the contract, if the Contracting Officer believes the total of these payments will not exceed the amount to which the Contractor shall be entitled.
- (2) If the total payments exceed the amount finally determined to be due, the Contractor shall repay the excess to the District upon demand together with interest computed at the rate of 10 percent (10%) per year. Interest shall be computed for the period from the date the excess payment is received by the Contractor to the date the excess payment is repaid. Interest shall not be charged on any excess payment due to a reduction in the Contractor's termination settlement proposal because of retention or

March (2007)

other disposition of termination inventory until 10 days after the date of the retention or disposition, or a later date determined by the Contracting Officer because of the circumstances.

- (l) Unless otherwise provided in this contract or by statute, the Contractor shall maintain all records and documents relating to the terminated portion of this contract for 3 years after final settlement. This includes all books and other evidence bearing on the Contractor's costs and expenses under this contract. The Contractor shall make these records and documents available to the District, at the Contractor's office, at all reasonable times, without any direct charge. If approved by the Contracting Officer, photographs, micrographs, or other authentic reproductions may be maintained instead of original records and documents.

**17. Recovery Of Debts Owed The District:**

The Contractor hereby agrees that the District may use all or any portion of any consideration or refund due the Contractor under the present contract to satisfy, in whole or part, any debt due the District.

**18. Retention and Examination Of Records:**

The Contractor shall establish and maintain books, records, and documents (including electronic storage media) in accordance with generally accepted accounting principles and practices which sufficiently and properly reflect all revenues and expenditures of funds provided by the District under the contract that results from this solicitation.

The Contractor shall retain all records, financial records, supporting documents, statistical records, and any other documents (including electronic storage media) pertinent to the contract for a period of three (3) years after termination of the contract, or if an audit has been initiated and audit findings have not been resolved at the end of three (3) years, the records shall be retained until resolution of the audit findings or any litigation which may be based on the terms of the contract.

The Contractor shall assure that these records shall be subject at all reasonable times to inspection, review, or audit by Federal, District, or other personnel duly authorized by the Contracting Officer.

The Contracting Officer, the Inspector General and the District of Columbia Auditor, or any of their duly authorized representatives shall, until three years after final payment, have the right to examine any directly pertinent books, documents, papers and records of the Contractor involving transactions related to the contract.

**19. Non-Discrimination Clause:**

- (a) The Contractor shall not discriminate in any manner against any employee or applicant for employment that would constitute a violation of the District of Columbia Human Rights Act, approved December 13, 1977, as amended (D. C. Law 2-38; D. C. Official Code §2-1402.11) (2001 Ed.) ("Act" as used in this Section). The Contractor shall include a similar clause in all subcontracts, except subcontracts for standard commercial supplies or raw materials. In addition, Contractor agrees and any subcontractor shall agree to post in conspicuous places, available to employees and applicants for employment, notice setting forth the provisions of this non-discrimination clause as provided in Section 251 of the Act.

March (2007)

- (b) Pursuant to rules of the Office of Human Rights, published on August 15, 1986 in the D. C. Register, Mayor's Order 2002-175 (10/23/02), 49 DCR 9883 and Mayor's Order 2006-151 (11/17/06), 52 DCR 9351, the following clauses apply to this contract:

- (1) The Contractor shall not discriminate against any employee or applicant for employment because of actual or perceived: race, color, religion, national origin, sex, age, marital status, personal appearance, sexual orientation, gender identity or expression, familial status, family responsibilities, disability, matriculation, political affiliation, genetic information, source of income, or place of residence or business. Sexual harassment is a form of sex discrimination which is prohibited by the Act. In addition, harassment based on any of the above protected categories is prohibited by the Act.
- (2) The Contractor agrees to take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their actual or perceived: race, color, religion, national origin, sex, age, marital status, personal appearance, sexual orientation, gender identity or expression, familial status, family responsibilities, disability, matriculation, political affiliation, genetic information, source of income, or place of residence or business.

The affirmative action shall include, but not be limited to the following:

- (a) employment, upgrading or transfer;
- (b) recruitment, or recruitment advertising;
- (c) demotion, layoff, or termination;
- (d) rates of pay, or other forms of compensation; and
- (e) selection for training and apprenticeship.
- (3) The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the Contracting Agency, setting forth the provisions in subsections (b)(1) and (b)(2) concerning non-discrimination and affirmative action.
- (4) The Contractor shall, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive consideration for employment pursuant to the non-discrimination requirements set forth in subsection (b)(2).
- (5) The Contractor agrees to send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided by the contracting agency, advising the said labor union or workers' representative of that contractor's commitments under this nondiscrimination clause and the Act, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

March (2007)

- (6) The Contractor agrees to permit access to his books, records and accounts pertaining to its employment practices, by the Chief Procurement Officer or designee, or the Director of Human Rights or designee, for purposes of investigation to ascertain compliance with this chapter, and to require under terms of any subcontractor agreement each subcontractor to permit access of such subcontractors' books, records, and accounts for such purposes.
- (7) The Contractor agrees to comply with the provisions of this chapter and with all guidelines for equal employment opportunity applicable in the District of Columbia adopted by the Director of the Office of Human Rights, or any authorized official.
- (8) The Contractor shall include in every subcontract the equal opportunity clauses, subsections (b)(1) through (b)(9) of this section, so that such provisions shall be binding upon each subcontractor or vendor.
- (9) The Contractor shall take such action with respect to any subcontract as the Contracting Officer may direct as a means of enforcing these provisions, including sanctions for noncompliance; provided, however, that in the event the Contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the contracting agency, the Contractor may request the District to enter into such litigation to protect the interest of the District.

**20. Definitions:**

The terms Mayor, Chief Procurement Officer, Contract Appeals Board and District will mean the Mayor of the District of Columbia, the Chief Procurement Officer of the District of Columbia or his/her alternate, the Contract Appeals Board of the District of Columbia, and the Government of the District of Columbia respectively. If the Contractor is an individual, the term Contractor shall mean the Contractor, his heirs, his executor and his administrator. If the Contractor is a corporation, the term Contractor shall mean the Contractor and its successor.

**21. Health And Safety Standards:**

Items delivered under this contract shall conform to all requirements of the Occupational Safety and Health Act of 1970, as amended ("OSHA"), and Department of Labor Regulations under OSHA, and all Federal requirements in effect at time of bid opening/proposal submission.

**22. Appropriation Of Funds:**

The District's liability under this contract is contingent upon the future availability of appropriated monies with which to make payment for the contract purposes. The legal liability on the part of the District for the payment of any money shall not arise unless and until such appropriation shall have been provided.

**23. Buy American Act:**

- (a) The Buy American Act (41 U.S.C. § 10a) provides that the District give preference to domestic end products.



March (2007)

“Components,” as used in this clause, means those articles, materials, and supplies incorporated directly into the end products.

“Domestic end product,” as used in this clause, means, (1) an unmanufactured end product mined or produced in the United States, or (2) an end product manufactured in the United States, if the cost of its components mined, produced, or manufactured in the United States, exceeds 50 percent of the cost of all its components. Components of foreign origin of the same class or kind as the products referred to in paragraphs (b)(2) or (3) of this clause shall be treated as domestic. Scrap generated, collected, and prepared for processing in the United States is considered domestic.

“End products,” as used in this clause, means those articles, materials, and supplies to be acquired for public use under this contract.

- (b) The Contractor shall deliver only domestic end products, except those-
  - (1) For use outside the United States;
  - (2) That the District determines are not mined, produced, or manufactured in the United States in sufficient and reasonably available commercial quantities of a satisfactory quality;
  - (3) For which the District determines that domestic preference would be inconsistent with the public interest; or
  - (4) For which the District determines the cost to be unreasonable.

**24. Service Contract Act of 1965:**

- (a) Definitions. “Act,” as used in this clause, means the Service Contract Act of 1965, as amended (41 U.S.C. §351, *et seq.*).
  - (1) “Contractor,” as used in this clause, means the prime Contractor or any subcontractor at any tier.
  - (2) “Service employee,” as used in this clause, means any person (other than a person employed in a bona fide executive, administrative, or professional capacity as defined in 29 CFR 541) engaged in performing a District contract not exempted under 41 U.S.C. §356, the principal purpose of which is to furnish services in the United States, as defined in section 22.1001 of the Federal Acquisition Regulation. It includes all such persons regardless of the actual or alleged contractual relationship between them and a contractor.
- (b) Applicability. To the extent that the Act applies, this contract is subject to the following provisions and to all other applicable provisions of the Act and regulations of the Secretary of Labor (20 CFR part 4). All interpretations of the Act in Subpart C of 29 CFR 4 are incorporated in this contract by reference. This clause does not apply to contracts or subcontracts administratively exempted by the Secretary of Labor or exempted by 41 U.S.C. §356, as interpreted in Subpart C of 29 CFR 4.
- (c) Compensation.

March (2007)

- (1) Each service employee employed in the performance of this contract by the Contractor or any subcontractor shall be paid not less than the minimum monetary wages and shall be furnished fringe benefits in accordance with the wages and fringe benefits determined by the Secretary of Labor or the Secretary's authorized representative, as specified in any wage determination attached to this contract.
- (2) If a wage determination is attached to this contract, the Contractor shall classify any class of service employees not listed in it, but to be employed under this contract (i.e., the work to be performed is not performed by any classification listed in the wage determination) so as to provide a reasonable relationship (i.e., appropriate level of skill comparison) between such unlisted classifications and the classifications listed in the wage determination. Such conformed class of employees shall be paid the monetary wages and furnished the fringe benefits as are determined pursuant to the procedures in this paragraph. This conforming procedure shall be initiated by the Contractor prior to the performance of contract work by the unlisted class of employee.
  - (a) The Contractor shall submit Standard Form (SF) 1444, Request for Authorization of Additional Classification and Rate, to the Contracting Officer no later than 30 days after the unlisted class of employee performs any contract work. The Contracting Officer shall review the proposed classification and rate and promptly submit the completed SF 1444 (which must include information regarding the agreement or disagreement of the employees' authorized representatives or the employees themselves together with the agency recommendation), and all pertinent information to the Wage and Hour Division, Employment Standards Administration (ESA), Department of Labor. The Wage and Hour Division will approve, modify, or disapprove the action or render a final determination in the event of disagreement within 30 days of receipt or will notify the Contracting Officer within 30 days of receipt that additional time is necessary;
  - (b) The final determination of the conformance action by the Wage and Hour Division shall be transmitted to the Contracting Officer who shall promptly notify the Contractor of the action taken. Each affected employee shall be furnished by the Contracting Officer with a written copy of such determination or it shall be posted as a part of the wage determination;
  - (c) The process of establishing wage and fringe benefit rates that bear a reasonable relationship to those listed in a wage determination cannot be reduced to any single formula. The approach used may vary from wage determination to wage determination depending on the circumstances. Standard wage and salary administration practices which rank various job classifications by pay grade pursuant to point schemes or other job factors may, for example, be relied upon. Guidance may also be obtained from the way different jobs are rated under Federal pay systems (Federal Wage Board Pay System and the General

Schedule) or from other wage determinations issued in the same locality. Basic to the establishment of any conformable wage rate(s) is the concept that a pay relationship should be maintained between job classifications based on the skill required and the duties performed;

- (d) In the case of a contract modification, an exercise of an option, or extension of an existing contract, or in any other case where a Contractor succeeds to a contract under which the classification in question was previously conformed pursuant to this clause, a new conformed wage rate and fringe benefits may be assigned to the conformed classification by indexing (*i.e.*, adjusting) the previous conformed rate and fringe benefits by an amount equal to the average (mean) percentage increase (or decrease, where appropriate) between the wages and fringe benefits specified for all classifications to be used on the contract which are listed in the current wage determination, and those specified for the corresponding classifications in the previously applicable wage determination. Where conforming actions are accomplished in accordance with this paragraph prior to the performance of contract work by the unlisted class of employees, the Contractor shall advise the Contracting Officer of the action taken but the other procedures in this clause need not be followed;
  - (e) No employee engaged in performing work on this contract shall in any event be paid less than the currently applicable minimum wage specified under section 6(a)(1) of the Fair Labor Standards Act of 1938, as amended;
  - (f) The wage rate and fringe benefits finally determined under this clause shall be paid to all employees performing in the classification from the first day on which contract work is performed by them in the classification. Failure to pay the unlisted employees the compensation agreed upon by the interested parties or finally determined by the Wage and Hour Division retroactive to the date such class of employees commenced contract work shall be a violation of the Act and this contract;
  - (g) Upon discovery of failure to comply with this clause, the Wage and Hour Division shall make a final determination of conformed classification, wage rate, and/or fringe benefits which shall be retroactive to the date such class or classes of employees commenced contract work.
- (3) If the term of this contract is more than 1 year, the minimum wages and fringe benefits required for service employees under this contract shall be subject to adjustment after 1 year and not less often than once every 2 years, under wage determinations issued by ESA.
  - (4) The Contractor can discharge the obligation to furnish fringe benefits specified in the attachment or determined under paragraph (2) of this clause by furnishing any equivalent combinations of bona fide fringe

March (2007)

benefits, or by making equivalent or differential cash payments, in accordance with Subpart B and C of 29 CFR 4.

- (d) Minimum wage: In the absence of a minimum wage attachment for this contract, the Contractor shall not pay any service or other employees performing this contract less than the minimum wage specified by section 6(a)(1) of the Fair Labor Standards Act of 1938, as amended (29 U.S.C. §206). Nothing in this clause shall relieve the Contractor of any other legal or contractual obligation to pay a higher wage to any employee.
- (e) Successor contracts: If this contract succeeds a contract subject to the Act under which substantially the same services were furnished and service employees were paid wages and fringe benefits provided for in a collective bargaining agreement, then, in the absence of a minimum wage attachment to this contract, the Contractor may not pay any service employee performing this contract less than the wages and benefits, including those accrued and any prospective increases, provided for under that agreement. No Contractor may be relieved of this obligation unless the limitations of 29 CFR 4.1c(b) apply or unless the Secretary of Labor or the Secretary's authorized representative:
  - (1) Determines that the agreement under the predecessor was not the result of arms-length negotiations; or
  - (2) Finds, after a hearing under 29 CFR 4.10, that the wages and benefits provided for by that agreement vary substantially from those prevailing for similar services in the locality or determines, as provided in 29 CFR 4.11, that the collective bargaining agreement applicable to service employees employed under the predecessor contract was not entered into as a result of arm's length negotiations. Where it is found in accordance with the review procedures provided in 29 CFR 4.10 and 4.11 and parts 6 and 8 that some or all of the wages and fringe benefits contained in a predecessor Contractor's collective bargaining agreement are substantially at variance with those which prevail for services of a character similar in the locality, and that the collective bargaining agreement applicable to service employees employed under the predecessor contract was not entered into as a result of arm's length negotiations, the Department will issue a new or revised wage determination setting forth the applicable wage rates and fringe benefits. Such determination shall be made part of the contract or subcontract, in accordance with the decision of the Administrator, the Administrative Law Judge, or the Board of Service Contract Appeals, as the case may be, irrespective of whether such issuance occurs prior to or after the award of a contract or subcontract (53 Comp. Gen. 401 (1973)). In the case of a wage determination issued solely as a result of a finding of substantial variance, such determination shall be effective as of the date of the final administrative decision.
- (f) Notification to employees: The Contractor shall notify each service employee commencing work on this contract of a minimum wage and any fringe benefits required to be paid, or shall post a notice of these wages and benefits in a prominent and accessible place at the worksite, using such poster as may be provided by the Department of Labor.

March (2007)

- (g) Safe and sanitary working conditions: The Contractor shall not permit services called for by this contract to be performed in buildings or surroundings or under working conditions provided by or under the control or supervision of the Contractor that are unsanitary, hazardous, or dangerous to the health or safety of service employees. The Contractor shall comply with the health standards applied under 29 CFR Part 1925.
- (h) Records: The Contractor shall maintain for 3 years from the completion of work, and make available for inspection and transcription by authorized ESA representatives, a record of the following:
  - (1) For each employee subject to the Act:
    - (a) Name and address;
    - (b) Work classification or classifications, rate or rates of wages and fringe benefits provided, rate or rates of payments in lieu of fringe benefits, and total daily and weekly compensation;
    - (c) Daily and weekly hours worked; and
    - (d) Any deductions, rebates, or refunds from total daily or weekly compensation.
  - (2) For those classes of service employees not included in any wage determination attached to this contract, wage rates or fringe benefits determined by the interested parties or by ESA under the terms of paragraph (c)(3) of this clause. A copy of the report required by paragraph (e) of this clause will fulfill this requirement.
  - (3) Any list of the predecessor Contractor's employees which had been furnished to the Contractor as prescribed by this clause. The Contractor shall also make available a copy of this contract for inspection or transcription by authorized representatives of the Wage and Hour Division. Failure to make and maintain or to make available these records for inspection and transcription shall be a violation of the regulations and this contract, and in the case of failure to produce these records, the Contracting Officer, upon direction of the Department of Labor and notification to the Contractor, shall take action to cause suspension of any further payment or advance of funds until the violation ceases. The Contractor shall permit authorized representatives of the Wage and Hour Division to conduct interviews with employees at the worksite during normal working hours.
- (i) Pay periods: The Contractor shall unconditionally pay to each employee subject to the Act all wages due free and clear and without subsequent deduction (except as otherwise provided by law or regulations, 29 CFR part 4), rebate, or kickback on any account. These payments shall be made no later than one pay period following the end of the regular pay period in which the wages were earned or accrued. A pay period under this Act may not be of any duration longer than semi-monthly.
- (j) Withholding of payments and termination of contract: The Contracting Officer shall withhold from the prime Contractor under this or any other District contract

March (2007)

with the prime contractor any sums the Contracting Officer, or an appropriate officer of the Labor Department, decides may be necessary to pay underpaid employees. In the event of failure to pay any employees subject to the Act all or part of the wages or fringe benefits due under the Act, the Contracting Officer may, after authorization or by direction of the Department of Labor and written notification to the Contractor, take action to cause suspension of any further payment or advance of funds until such violations have ceased. Additionally, any failure to comply with the requirements of this clause may be grounds for termination for default. In such event, the District may enter into other contracts or arrangements for completion of the work, charging the Contractor in default with any additional cost.

- (k) Subcontracts: The Contractor agrees to insert this clause in all subcontracts.
- (l) Contractor's report:
  - (1) If there is a wage determination attachment to this contract and any classes of service employees not listed on it are to be employed under the contract, the Contractor shall report promptly to the Contracting Officer the wages to be paid and the fringe benefits to be provided each of these classes, when determined under paragraph (c) of this clause.
  - (2) If wages to be paid or fringe benefits to be furnished any service employees under the contract are covered in a collective bargaining agreement effective at any time when the contract is being performed, the Contractor shall provide to the Contracting Officer a copy of the agreement and full information on the application and accrual of wages and benefits (including any prospective increases) to service employees working on the contract. The Contractor shall report when contract performance begins, in the case of agreements then in effect, and shall report subsequently effective agreements, provisions, or amendments promptly after they are negotiated.
- (m) Contractor's Certification: By entering into this contract, the Contractor (and officials thereof) certifies that neither it (nor he or she) nor any person or firm who has a substantial interest in the Contractor's firm is a person or firm ineligible to be awarded District contracts by virtue of the sanctions imposed under section 5 of the Act. No part of this contract shall be subcontracted to any person or firm ineligible for award of a District contract under section 5 of the Act. The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 U.S.C. §1001.
- (n) Variations, tolerances, and exemptions involving employment: Notwithstanding any of the provisions in paragraphs (c) through (l) of this clause, the following employees may be employed in accordance with the following variations, tolerances, and exemptions authorized by the Secretary of Labor.
  - (1)(i) In accordance with regulations issued under Section 14 of the Fair Labor Standards Act of 1938 by the Administrator of the Wage and Hour Division, ESA (29 CFR 520, 521, 524, and 525), apprentices, student learners, and workers whose earning capacity is impaired by age or by physical or mental deficiency or injury, may be employed at wages lower than the minimum wages otherwise required by section 2(a)(1) or 2(b)(1)

March (2007)

of the Service Contract Act, without diminishing any fringe benefits or payments in lieu of these benefits required under section 2(a)(2) of the Act.

- (ii) The Administrator will issue certificates under the Act for employing apprentices, student-learners, handicapped persons, or handicapped clients of sheltered workshops not subject to the Fair Labor Standards Act of 1938, or subject to different minimum rates of pay under the two acts, authorizing appropriate rates of minimum wages, but without changing requirements concerning fringe benefits or supplementary cash payments in lieu of these benefits.
- (iii) The Administrator may also withdraw, annul, or cancel such certificates under 29 CFR 525 and 528.
- (2) An employee engaged in an occupation in which the employee customarily and regularly receives more than \$30 a month in tips shall be credited by the employer against the minimum wage required by section 2(a)(1) or section 2(b)(1) of the Act, in accordance with regulations in 29 CFR 531. However, the amount of credit shall not exceed 40 percent of the minimum rate specified in section 6(a)(1) of the Fair Labor Standards Act of 1938 as amended.

**25. Cost and Pricing Data:**

- (a) This paragraph and paragraphs b through e below shall apply to contractors or offerors in regards to: (1) any procurement in excess of \$100,000, (2) any contract awarded through competitive sealed proposals, (3) any contract awarded through sole source procurement, or (4) any change order or contract modification. By entering into this contract or submitting this offer, the Contractor or offeror certifies that, to the best of the Contractor's or offeror's knowledge and belief, any cost and pricing data submitted was accurate, complete and current as of the date specified in the contract or offer.
- (b) Unless otherwise provided in the solicitation, the offeror or Contractor shall, before entering into any contract awarded through competitive sealed proposals or through sole source procurement or before negotiating any price adjustments pursuant to a change order or modification, submit cost or pricing data and certification that, to the best of the Contractor's knowledge and belief, the cost or pricing data submitted was accurate, complete, and current as of the date of award of this contract or as of the date of negotiation of the change order or modification.
- (c) If any price, including profit or fee, negotiated in connection with this contract, or any cost reimbursable under this contract, was increased by any significant amount because (1) the Contractor or a subcontractor furnished cost or pricing data that were not complete, accurate, and current as certified by the Contractor, (2) a subcontractor or prospective subcontractor furnished the Contractor cost or pricing data that were not complete, accurate, and current as certified by the Contractor, or (3) any of these parties furnished data of any description that were not accurate, the price or cost shall be reduced accordingly and the contract shall be modified to reflect the reduction.

March (2007)

- (d) Any reduction in the contract price under paragraph c above due to defective data from a prospective subcontractor that was not subsequently awarded, the subcontract shall be limited to the amount, plus applicable overhead and profit markup, by which (1) the actual subcontract or (2) the actual cost to the Contractor, if there was no subcontract, was less than the prospective subcontract cost estimate submitted by the Contractor; provided that the actual subcontract price was not itself affected by defective cost or pricing data.
- (e) Cost or pricing data includes all facts as of the time of price agreement that prudent buyers and sellers would reasonably expect to affect price negotiations significantly. Cost or pricing data are factual, not judgmental, and are therefore verifiable. While they do not indicate the accuracy of the prospective Contractor's judgment about estimated future costs or projections, cost or pricing data do include the data forming the basis for that judgment. Cost or pricing data are more than historical accounting data; they are all the facts that can be reasonably expected to contribute to the soundness of estimates of future costs and to the validity of determinations of costs already incurred.
- (f) The following specific information should be included as cost or pricing data, as applicable:
  - (1) Vendor quotations;
  - (2) Nonrecurring costs;
  - (3) Information on changes in production methods or purchasing volume;
  - (4) Data supporting projections of business prospects and objectives and related operations costs;
  - (5) Unit – cost trends such as those associated with labor efficiency;
  - (6) Make or buy decisions;
  - (7) Estimated resources to attain business goals;
  - (8) Information on management decisions that could have a significant bearing on costs.
- (g) If the offeror or contractor is required by law to submit cost or pricing data in connection with pricing this contract or any change order or modification of this contract, the Contracting Officer or representatives of the Contracting Officer shall have the right to examine all books, records, documents and other data of the Contractor (including computations and projections) related to negotiating, pricing, or performing the contract, change order or modification, in order to evaluate the accuracy, completeness, and currency of the cost or pricing data. The right of examination shall extend to all documents necessary to permit adequate evaluation of the cost or pricing data submitted, along with the computations and projections used. Contractor shall make available at its office at all reasonable times the materials described above for examination, audit, or reproduction until three years after the later of:
  - (1) final payment under the contract;



March (2007)

- (2) final termination settlement; or
- (3) the final disposition of any appeals under the disputes clause or of litigation or the settlement of claims arising under or relating to the contract.

**26. Multiyear Contract:**

If this contract is a multiyear contract, then the following provision is made part of this contract:

If funds are not appropriated or otherwise made available for the continued performance in a subsequent year of a multiyear contract, the contract for the subsequent year shall be terminated, either automatically or in accordance with the termination clause of the contract. Unless otherwise provided for in the contract, the effect of termination is to discharge both the District and the Contractor from future performance of the contract, but not from the existing obligations. The Contractor shall be reimbursed for the reasonable value of any non-recurring costs incurred but not amortized in the price of the supplies or services delivered under the contract.

**27. Termination Of Contracts For Certain Crimes And Violations:**

- (a) The District may terminate without liability any contract and may deduct from the contract price or otherwise recover the full amount of any fee, commission, percentage, gift, or consideration paid in violation of this title if:
  - (1) The Contractor has been convicted of a crime arising out of or in connection with the procurement of any work to be done or any payment to be made under the contract; or
  - (2) There has been any breach or violation of:
    - (A) Any provision of the Procurement Practices Act of 1985, as amended, or
    - (B) The contract provision against contingent fees.
- (b) If a contract is terminated pursuant to this section, the Contractor:
  - (1) May be paid only the actual costs of the work performed to the date of termination, plus termination costs, if any; and
  - (2) Shall refund all profits or fixed fees realized under the Contract.
- (c) The rights and remedies contained in this are in addition to any other right or remedy provided by law, and the exercise of any of them is not a waiver of any other right or remedy provided by law.

**Attachment D**  
Tax Affidavit

**GOVERNMENT OF THE DISTRICT OF COLUMBIA**

**Office of the Chief Financial Officer**

**Office of Tax and Revenue**



**TAX CERTIFICATION AFFIDAVIT**

**THIS AFFIDAVIT IS TO BE COMPLETED ONLY BY THOSE WHO ARE REGISTERED TO CONDUCT BUSINESS IN THE DISTRICT OF COLUMBIA.**

**Date**

**Name of Organization/Entity  
Business Address (include zip code)  
Business Phone Number(s)**

**Principal Officer Name and Title  
Square and Lot Information  
Federal Identification Number  
Contract Number  
Unemployment Insurance Account No.**

"I hereby authorize the District of Columbia, Office of the Chief Financial Officer, Office of Tax and Revenue; consent to release my tax information to an authorized representative of the District of Columbia agency from which I am seeking to enter into a contractual relationship. I understand that the information released under this consent will be limited to whether or not I am in compliance with the District of Columbia tax laws and regulations as of the date found on the government request. I understand that this information is to be used solely for the purpose of determining my eligibility to enter into a contractual relationship with a District of Columbia agency. I further authorize that this consent be valid for one year from the date of this authorization."

I hereby certify that I am in compliance with the applicable tax filing and payment requirements of the District of Columbia.

The Office of Tax and Revenue is hereby authorized to verify the above information with the appropriate government authorities. The penalty for making false statements is a fine not to exceed \$5,000.00, imprisonment for not more than 180 days, or both, as prescribed by D.C. Official Code § 47-4106.

**Signature of Authorizing Agent**

**Title**

**Attachment E**  
U.S. Department of Labor Wage Rate Determination Schedule

DCAM-13-NC-0112 Attachment D US DOL Wage Schedule.txt  
 WD 05-2103 (Rev.-12) was first posted on www.wdol.gov on 06/19/2012

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REGISTER OF WAGE DETERMINATIONS UNDER  
 THE SERVICE CONTRACT ACT  
 By direction of the Secretary of Labor

U.S. DEPARTMENT OF LABOR  
 EMPLOYMENT STANDARDS ADMINISTRATION  
 WAGE AND HOUR DIVISION  
 WASHINGTON D.C. 20210

Diane C. Koplewski Division of  
 Director Wage Determinations

Wage Determination No.: 2005-2103  
 Revision No.: 12  
 Date Of Revision: 06/13/2012

States: District of Columbia, Maryland, Virginia

Area: District of Columbia Statewide  
 Maryland Counties of Calvert, Charles, Frederick, Montgomery, Prince  
 George's, St Mary's  
 Virginia Counties of Alexandria, Arlington, Fairfax, Falls Church, Fauquier,  
 King George, Loudoun, Prince William, Stafford

**Fringe Benefits Required Follow the Occupational Listing**		
OCCUPATION CODE - TITLE	FOOTNOTE	RATE
01000 - Administrative Support And Clerical Occupations		
01011 - Accounting Clerk I		15.08
01012 - Accounting Clerk II		16.92
01013 - Accounting Clerk III		22.30
01020 - Administrative Assistant		31.41
01040 - Court Reporter		21.84
01051 - Data Entry Operator I		14.38
01052 - Data Entry Operator II		15.69
01060 - Dispatcher, Motor Vehicle		17.87
01070 - Document Preparation Clerk		14.21
01090 - Duplicating Machine Operator		14.21
01111 - General Clerk I		14.88
01112 - General Clerk II		16.24
01113 - General Clerk III		18.74
01120 - Housing Referral Assistant		25.29
01141 - Messenger Courier		13.62
01191 - Order Clerk I		15.12
01192 - Order Clerk II		16.50
01261 - Personnel Assistant (Employment) I		18.15
01262 - Personnel Assistant (Employment) II		20.32
01263 - Personnel Assistant (Employment) III		22.65
01270 - Production Control Clerk		22.03
01280 - Receptionist		14.43
01290 - Rental Clerk		16.55
01300 - Scheduler, Maintenance		18.07
01311 - Secretary I		18.07
01312 - Secretary II		20.18
01313 - Secretary III		25.29
01320 - Service Order Dispatcher		16.98
01410 - Supply Technician		28.55
01420 - Survey Worker		20.03
01531 - Travel Clerk I		13.29
01532 - Travel Clerk II		14.36
01533 - Travel Clerk III		15.49
01611 - Word Processor I		15.63
01612 - Word Processor II		17.67
01613 - Word Processor III		19.95
05000 - Automotive Service Occupations		
05005 - Automobile Body Repairer, Fiberglass		25.26
05010 - Automotive Electrician		23.51

DCAM-13-NC-0112 Attachment D US DOL Wage Schedule.txt

05040	- Automotive Glass Installer	22.15
05070	- Automotive Worker	22.15
05110	- Mobile Equipment Servicer	19.04
05130	- Motor Equipment Metal Mechanic	24.78
05160	- Motor Equipment Metal Worker	22.15
05190	- Motor Vehicle Mechanic	24.78
05220	- Motor Vehicle Mechanic Helper	18.49
05250	- Motor Vehicle Upholstery Worker	21.63
05280	- Motor Vehicle Wrecker	22.15
05310	- Painter, Automotive	23.51
05340	- Radiator Repair Specialist	22.15
05370	- Tire Repairer	14.44
05400	- Transmission Repair Specialist	24.78
07000	- Food Preparation And Service Occupations	
07010	- Baker	13.85
07041	- Cook I	12.55
07042	- Cook II	14.60
07070	- Dishwasher	10.11
07130	- Food Service Worker	10.66
07210	- Meat Cutter	18.08
07260	- Waiter/Waitress	9.70
09000	- Furniture Maintenance And Repair Occupations	
09010	- Electrostatic Spray Painter	19.86
09040	- Furniture Handler	14.06
09080	- Furniture Refinisher	20.23
09090	- Furniture Refinisher Helper	15.52
09110	- Furniture Repairer, Minor	17.94
09130	- Upholsterer	19.86
11000	- General Services And Support Occupations	
11030	- Cleaner, Vehicles	10.54
11060	- Elevator Operator	10.54
11090	- Gardener	17.52
11122	- Housekeeping Aide	11.83
11150	- Janitor	11.83
11210	- Laborer, Grounds Maintenance	13.07
11240	- Maid or Houseman	11.26
11260	- Pruner	11.58
11270	- Tractor Operator	16.04
11330	- Trail Maintenance Worker	13.07
11360	- Window Cleaner	12.85
12000	- Health Occupations	
12010	- Ambulance Driver	20.41
12011	- Breath Alcohol Technician	20.27
12012	- Certified Occupational Therapist Assistant	23.11
12015	- Certified Physical Therapist Assistant	21.43
12020	- Dental Assistant	17.18
12025	- Dental Hygienist	44.75
12030	- EKG Technician	27.67
12035	- Electroneurodiagnostic Technologist	27.67
12040	- Emergency Medical Technician	20.41
12071	- Licensed Practical Nurse I	19.07
12072	- Licensed Practical Nurse II	21.35
12073	- Licensed Practical Nurse III	24.13
12100	- Medical Assistant	15.01
12130	- Medical Laboratory Technician	18.04
12160	- Medical Record Clerk	17.42
12190	- Medical Record Technician	19.50
12195	- Medical Transcriptionist	18.77
12210	- Nuclear Medicine Technologist	37.60
12221	- Nursing Assistant I	10.80
12222	- Nursing Assistant II	12.14
12223	- Nursing Assistant III	13.98
12224	- Nursing Assistant IV	15.69

DCAM-13-NC-0112 Attachment D US DOL Wage Schedule.txt

12235 - Optical Dispenser	20.17
12236 - Optical Technician	15.80
12250 - Pharmacy Technician	18.12
12280 - Phlebotomist	15.69
12305 - Radiologic Technologist	31.11
12311 - Registered Nurse I	27.64
12312 - Registered Nurse II	33.44
12313 - Registered Nurse II, Specialist	33.44
12314 - Registered Nurse III	40.13
12315 - Registered Nurse III, Anesthetist	40.13
12316 - Registered Nurse IV	48.10
12317 - Scheduler (Drug and Alcohol Testing)	21.73
13000 - Information And Arts Occupations	
13011 - Exhibits Specialist I	19.86
13012 - Exhibits Specialist II	24.61
13013 - Exhibits Specialist III	30.09
13041 - Illustrator I	20.48
13042 - Illustrator II	25.38
13043 - Illustrator III	31.03
13047 - Librarian	33.88
13050 - Library Aide/Clerk	14.21
13054 - Library Information Technology Systems Administrator	30.60
13058 - Library Technician	19.89
13061 - Media Specialist I	18.73
13062 - Media Specialist II	20.95
13063 - Media Specialist III	23.36
13071 - Photographer I	16.65
13072 - Photographer II	18.90
13073 - Photographer III	23.67
13074 - Photographer IV	28.65
13075 - Photographer V	33.76
13110 - Video Teleconference Technician	20.39
14000 - Information Technology Occupations	
14041 - Computer Operator I	18.92
14042 - Computer Operator II	21.18
14043 - Computer Operator III	23.60
14044 - Computer Operator IV	26.22
14045 - Computer Operator V	29.05
14071 - Computer Programmer I	(see 1) 26.36
14072 - Computer Programmer II	(see 1)
14073 - Computer Programmer III	(see 1)
14074 - Computer Programmer IV	(see 1)
14101 - Computer Systems Analyst I	(see 1)
14102 - Computer Systems Analyst II	(see 1)
14103 - Computer Systems Analyst III	(see 1)
14150 - Peripheral Equipment Operator	18.92
14160 - Personal Computer Support Technician	26.22
15000 - Instructional Occupations	
15010 - Aircrew Training Devices Instructor (Non-Rated)	36.47
15020 - Aircrew Training Devices Instructor (Rated)	44.06
15030 - Air Crew Training Devices Instructor (Pilot)	52.81
15050 - Computer Based Training Specialist / Instructor	36.47
15060 - Educational Technologist	35.31
15070 - Flight Instructor (Pilot)	52.81
15080 - Graphic Artist	26.80
15090 - Technical Instructor	25.08
15095 - Technical Instructor/Course Developer	30.67
15110 - Test Proctor	20.20
15120 - Tutor	20.20
16000 - Laundry, Dry-Cleaning, Pressing And Related Occupations	
16010 - Assembler	9.88
16030 - Counter Attendant	9.88

DCAM-13-NC-0112 Attachment D US DOL Wage Schedule.txt

16040 - Dry Cleaner	12.94
16070 - Finisher, Flatwork, Machine	9.88
16090 - Presser, Hand	9.88
16110 - Presser, Machine, Drycleaning	9.88
16130 - Presser, Machine, Shirts	9.88
16160 - Presser, Machine, Wearing Apparel, Laundry	9.88
16190 - Sewing Machine Operator	13.78
16220 - Tailor	14.66
16250 - Washer, Machine	10.88
19000 - Machine Tool Operation And Repair Occupations	
19010 - Machine-Tool Operator (Tool Room)	21.14
19040 - Tool And Die Maker	23.38
21000 - Materials Handling And Packing Occupations	
21020 - Forklift Operator	18.02
21030 - Material Coordinator	22.03
21040 - Material Expediter	22.03
21050 - Material Handling Laborer	13.83
21071 - Order Filler	15.09
21080 - Production Line Worker (Food Processing)	18.02
21110 - Shipping Packer	15.09
21130 - Shipping/Receiving Clerk	15.09
21140 - Store Worker I	11.72
21150 - Stock Clerk	16.86
21210 - Tools And Parts Attendant	18.02
21410 - Warehouse Specialist	18.02
23000 - Mechanics And Maintenance And Repair Occupations	
23010 - Aerospace Structural Welder	27.21
23021 - Aircraft Mechanic I	25.83
23022 - Aircraft Mechanic II	27.21
23023 - Aircraft Mechanic III	28.53
23040 - Aircraft Mechanic Helper	17.54
23050 - Aircraft, Painter	24.73
23060 - Aircraft Servicer	19.76
23080 - Aircraft Worker	21.01
23110 - Appliance Mechanic	21.75
23120 - Bicycle Repairer	14.43
23125 - Cable Splicer	26.02
23130 - Carpenter, Maintenance	21.40
23140 - Carpet Layer	20.49
23160 - Electrician, Maintenance	27.98
23181 - Electronics Technician Maintenance I	24.94
23182 - Electronics Technician Maintenance II	26.47
23183 - Electronics Technician Maintenance III	27.89
23260 - Fabric Worker	19.13
23290 - Fire Alarm System Mechanic	22.91
23310 - Fire Extinguisher Repairer	17.62
23311 - Fuel Distribution System Mechanic	22.81
23312 - Fuel Distribution System Operator	19.38
23370 - General Maintenance Worker	21.43
23380 - Ground Support Equipment Mechanic	25.83
23381 - Ground Support Equipment Servicer	19.76
23382 - Ground Support Equipment Worker	21.01
23391 - Gunsmith I	17.62
23392 - Gunsmith II	20.49
23393 - Gunsmith III	22.91
23410 - Heating, Ventilation And Air-Conditioning Mechanic	23.89
23411 - Heating, Ventilation And Air Contditioning Mechanic (Research Facility)	25.17
23430 - Heavy Equipment Mechanic	22.91
23440 - Heavy Equipment Operator	22.91
23460 - Instrument Mechanic	22.59
23465 - Laboratory/Shelter Mechanic	21.75



DCAM-13-NC-0112 Attachment D US DOL Wage Schedule.txt

23470	- Laborer	14.98
23510	- Locksmith	21.90
23530	- Machinery Maintenance Mechanic	23.12
23550	- Machinist, Maintenance	22.91
23580	- Maintenance Trades Helper	18.27
23591	- Metrology Technician I	22.59
23592	- Metrology Technician II	23.80
23593	- Metrology Technician III	24.96
23640	- Millwright	28.19
23710	- Office Appliance Repairer	22.96
23760	- Painter, Maintenance	21.75
23790	- Pipefitter, Maintenance	24.63
23810	- Plumber, Maintenance	22.29
23820	- Pneudraulic Systems Mechanic	22.91
23850	- Rigger	22.91
23870	- Scale Mechanic	20.49
23890	- Sheet-Metal Worker, Maintenance	22.91
23910	- Small Engine Mechanic	20.49
23931	- Telecommunications Mechanic I	29.95
23932	- Telecommunications Mechanic II	31.55
23950	- Telephone Lineman	27.41
23960	- Welder, Combination, Maintenance	22.91
23965	- Well Driller	22.91
23970	- Woodcraft Worker	22.91
23980	- Woodworker	17.62
24000	- Personal Needs Occupations	
24570	- Child Care Attendant	12.79
24580	- Child Care Center Clerk	17.77
24610	- Chore Aide	10.57
24620	- Family Readiness And Support Services Coordinator	16.90
24630	- Homemaker	18.43
25000	- Plant And System Operations Occupations	
25010	- Boiler Tender	27.30
25040	- Sewage Plant Operator	20.84
25070	- Stationary Engineer	27.30
25190	- Ventilation Equipment Tender	19.49
25210	- Water Treatment Plant Operator	20.84
27000	- Protective Service Occupations	
27004	- Alarm Monitor	20.57
27007	- Baggage Inspector	12.71
27008	- Corrections Officer	22.80
27010	- Court Security Officer	24.72
27030	- Detection Dog Handler	20.57
27040	- Detention Officer	22.80
27070	- Firefighter	24.63
27101	- Guard I	12.71
27102	- Guard II	20.57
27131	- Police Officer I	26.52
27132	- Police Officer II	29.67
28000	- Recreation Occupations	
28041	- Carnival Equipment Operator	13.59
28042	- Carnival Equipment Repairer	14.63
28043	- Carnival Equipment Worker	9.24
28210	- Gate Attendant/Gate Tender	13.01
28310	- Lifeguard	11.59
28350	- Park Attendant (Aide)	14.56
28510	- Recreation Aide/Health Facility Attendant	10.62
28515	- Recreation Specialist	18.04
28630	- Sports Official	11.59
28690	- Swimming Pool Operator	18.21
29000	- Stevedoring/Longshoremen Occupational Services	
29010	- Blocker And Bracer	23.13

DCAM-13-NC-0112 Attachment D US DOL Wage Schedule.txt

29020 - Hatch Tender	23.13
29030 - Line Handler	23.13
29041 - Stevedore I	21.31
29042 - Stevedore II	24.24
30000 - Technical Occupations	
30010 - Air Traffic Control Specialist, Center (HFO) (see 2)	39.92
30011 - Air Traffic Control Specialist, Station (HFO) (see 2)	26.84
30012 - Air Traffic Control Specialist, Terminal (HFO) (see 2)	29.56
30021 - Archeological Technician I	20.19
30022 - Archeological Technician II	22.60
30023 - Archeological Technician III	27.98
30030 - Cartographic Technician	27.98
30040 - Civil Engineering Technician	26.41
30061 - Drafter/CAD Operator I	20.19
30062 - Drafter/CAD Operator II	22.60
30063 - Drafter/CAD Operator III	25.19
30064 - Drafter/CAD Operator IV	31.00
30081 - Engineering Technician I	22.92
30082 - Engineering Technician II	25.72
30083 - Engineering Technician III	28.79
30084 - Engineering Technician IV	35.64
30085 - Engineering Technician V	43.61
30086 - Engineering Technician VI	52.76
30090 - Environmental Technician	27.41
30210 - Laboratory Technician	23.38
30240 - Mathematical Technician	28.94
30361 - Paralegal/Legal Assistant I	21.36
30362 - Paralegal/Legal Assistant II	26.47
30363 - Paralegal/Legal Assistant III	32.36
30364 - Paralegal/Legal Assistant IV	39.16
30390 - Photo-Optics Technician	27.98
30461 - Technical Writer I	21.93
30462 - Technical Writer II	26.84
30463 - Technical Writer III	32.47
30491 - Unexploded Ordnance (UXO) Technician I	24.74
30492 - Unexploded Ordnance (UXO) Technician II	29.93
30493 - Unexploded Ordnance (UXO) Technician III	35.88
30494 - Unexploded (UXO) Safety Escort	24.74
30495 - Unexploded (UXO) Sweep Personnel	24.74
30620 - Weather Observer, Combined Upper Air Or (see 2)	25.19
Surface Programs	
30621 - Weather Observer, Senior (see 2)	27.98
31000 - Transportation/Mobile Equipment Operation Occupations	
31020 - Bus Aide	14.32
31030 - Bus Driver	20.85
31043 - Driver Courier	13.98
31260 - Parking and Lot Attendant	10.07
31290 - Shuttle Bus Driver	15.66
31310 - Taxi Driver	13.98
31361 - Truckdriver, Light	15.66
31362 - Truckdriver, Medium	17.90
31363 - Truckdriver, Heavy	19.18
31364 - Truckdriver, Tractor-Trailer	19.18
99000 - Miscellaneous Occupations	
99030 - Cashier	10.03
99050 - Desk Clerk	11.58
99095 - Embalmer	23.05
99251 - Laboratory Animal Caretaker I	11.30
99252 - Laboratory Animal Caretaker II	12.35
99310 - Mortician	31.73
99410 - Pest Controller	17.69
99510 - Photofinishing Worker	13.20
99710 - Recycling Laborer	18.50

DCAM-13-NC-0112 Attachment D US DOL Wage Schedule.txt

99711 - Recycling Specialist	22.71
99730 - Refuse Collector	16.40
99810 - Sales Clerk	12.09
99820 - School Crossing Guard	13.43
99830 - Survey Party Chief	21.94
99831 - Surveying Aide	13.63
99832 - Surveying Technician	20.85
99840 - Vending Machine Attendant	14.43
99841 - Vending Machine Repairer	18.73
99842 - Vending Machine Repairer Helper	14.43

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ALL OCCUPATIONS LISTED ABOVE RECEIVE THE FOLLOWING BENEFITS:

HEALTH & WELFARE: \$3.71 per hour or \$148.40 per week or \$643.07 per month

VACATION: 2 weeks paid vacation after 1 year of service with a contractor or successor; 3 weeks after 5 years, and 4 weeks after 15 years. Length of service includes the whole span of continuous service with the present contractor or successor, wherever employed, and with the predecessor contractors in the performance of similar work at the same Federal facility. (Reg. 29 CFR 4.173)

HOLIDAYS: A minimum of ten paid holidays per year, New Year's Day, Martin Luther King Jr's Birthday, Washington's Birthday, Memorial Day, Independence Day, Labor Day, Columbus Day, Veterans' Day, Thanksgiving Day, and Christmas Day. (A contractor may substitute for any of the named holidays another day off with pay in accordance with a plan communicated to the employees involved.) (See 29 CFR 4174)

THE OCCUPATIONS WHICH HAVE NUMBERED FOOTNOTES IN PARENTHESES RECEIVE THE FOLLOWING:

1) COMPUTER EMPLOYEES: Under the SCA at section 8(b), this wage determination does not apply to any employee who individually qualifies as a bona fide executive, administrative, or professional employee as defined in 29 C.F.R. Part 541. Because most Computer System Analysts and Computer Programmers who are compensated at a rate not less than \$27.63 (or on a salary or fee basis at a rate not less than \$455 per week) an hour would likely qualify as exempt computer professionals, (29 C.F.R. 541.400) wage rates may not be listed on this wage determination for all occupations within those job families. In addition, because this wage determination may not list a wage rate for some or all occupations within those job families if the survey data indicates that the prevailing wage rate for the occupation equals or exceeds \$27.63 per hour conformances may be necessary for certain nonexempt employees. For example, if an individual employee is nonexempt but nevertheless performs duties within the scope of one of the Computer Systems Analyst or Computer Programmer occupations for which this wage determination does not specify an SCA wage rate, then the wage rate for that employee must be conformed in accordance with the conformance procedures described in the conformance note included on this wage determination.

Additionally, because job titles vary widely and change quickly in the computer industry, job titles are not determinative of the application of the computer professional exemption. Therefore, the exemption applies only to computer employees who satisfy the compensation requirements and whose primary duty consists of:

(1) The application of systems analysis techniques and procedures, including consulting with users, to determine hardware, software or system functional specifications;

(2) The design, development, documentation, analysis, creation, testing or modification of computer systems or programs, including prototypes, based on and

related to user or system design specifications;

(3) The design, documentation, testing, creation or modification of computer programs related to machine operating systems; or

(4) A combination of the aforementioned duties, the performance of which requires the same level of skills. (29 C.F.R. 541.400).

2) AIR TRAFFIC CONTROLLERS AND WEATHER OBSERVERS - NIGHT PAY & SUNDAY PAY: If you work at night as part of a regular tour of duty, you will earn a night differential and receive an additional 10% of basic pay for any hours worked between 6pm and 6am. If you are a full-time employed (40 hours a week) and Sunday is part of your regularly scheduled workweek, you are paid at your rate of basic pay plus a Sunday premium of 25% of your basic rate for each hour of Sunday work which is not overtime (i.e. occasional work on Sunday outside the normal tour of duty is considered overtime work).

HAZARDOUS PAY DIFFERENTIAL: An 8 percent differential is applicable to employees employed in a position that represents a high degree of hazard when working with or in close proximity to ordnance, explosives, and incendiary materials. This includes work such as screening, blending, dying, mixing, and pressing of sensitive ordnance, explosives, and pyrotechnic compositions such as lead azide, black powder and photoflash powder. All dry-house activities involving propellants or explosives.

Demilitarization, modification, renovation, demolition, and maintenance operations on sensitive ordnance, explosives and incendiary materials. All operations involving regrading and cleaning of artillery ranges.

A 4 percent differential is applicable to employees employed in a position that represents a low degree of hazard when working with, or in close proximity to ordnance, (or employees possibly adjacent to) explosives and incendiary materials which involves potential injury such as laceration of hands, face, or arms of the employee engaged in the operation, irritation of the skin, minor burns and the like; minimal damage to immediate or adjacent work area or equipment being used. All operations involving, unloading, storage, and hauling of ordnance, explosive, and incendiary ordnance material other than small arms ammunition. These differentials are only applicable to work that has been specifically designated by the agency for ordnance, explosives, and incendiary material differential pay.

**\*\* UNIFORM ALLOWANCE \*\***

If employees are required to wear uniforms in the performance of this contract (either by the terms of the Government contract, by the employer, by the state or local law, etc.), the cost of furnishing such uniforms and maintaining (by laundering or dry cleaning) such uniforms is an expense that may not be borne by an employee where such cost reduces the hourly rate below that required by the wage determination. The Department of Labor will accept payment in accordance with the following standards as compliance:

The contractor or subcontractor is required to furnish all employees with an adequate number of uniforms without cost or to reimburse employees for the actual cost of the uniforms. In addition, where uniform cleaning and maintenance is made the responsibility of the employee, all contractors and subcontractors subject to this wage determination shall (in the absence of a bona fide collective bargaining agreement providing for a different amount, or the furnishing of contrary affirmative proof as to the actual cost), reimburse all employees for such cleaning and maintenance at a rate of \$3.35 per week (or \$.67 cents per day). However, in those instances where the uniforms furnished are made of "wash and wear" materials, may be routinely washed and dried with other personal garments, and do not require any special treatment such as dry cleaning, daily washing, or commercial laundering in order to meet the cleanliness or appearance standards set by the terms of the Government contract, by the contractor, by law, or by the nature of the work, there is no requirement that employees be reimbursed for uniform maintenance costs.

The duties of employees under job titles listed are those described in the "Service Contract Act Directory of Occupations", Fifth Edition, April 2006, unless otherwise indicated. Copies of the Directory are available on the Internet. A links to the Directory may be found on the WHD home page at <http://www.dol.gov/esa/whd/> or through the Wage Determinations On-Line (WDOL) Web site at <http://wdol.gov/>.

REQUEST FOR AUTHORIZATION OF ADDITIONAL CLASSIFICATION AND WAGE RATE {Standard Form 1444 (SF 1444)}

Conformance Process:

The contracting officer shall require that any class of service employee which is not listed herein and which is to be employed under the contract (i.e., the work to be performed is not performed by any classification listed in the wage determination), be classified by the contractor so as to provide a reasonable relationship (i.e., appropriate level of skill comparison) between such unlisted classifications and the classifications listed in the wage determination. Such conformed classes of employees shall be paid the monetary wages and furnished the fringe benefits as are determined. Such conforming process shall be initiated by the contractor prior to the performance of contract work by such unlisted class(es) of employees. The conformed classification, wage rate, and/or fringe benefits shall be retroactive to the commencement date of the contract. {See Section 4.6 (C)(vi)} When multiple wage determinations are included in a contract, a separate SF 1444 should be prepared for each wage determination to which a class(es) is to be conformed.

The process for preparing a conformance request is as follows:

- 1) When preparing the bid, the contractor identifies the need for a conformed occupation(s) and computes a proposed rate(s).
- 2) After contract award, the contractor prepares a written report listing in order proposed classification title(s), a Federal grade equivalency (FGE) for each proposed classification(s), job description(s), and rationale for proposed wage rate(s), including information regarding the agreement or disagreement of the authorized representative of the employees involved, or where there is no authorized representative, the employees themselves. This report should be submitted to the contracting officer no later than 30 days after such unlisted class(es) of employees performs any contract work.
- 3) The contracting officer reviews the proposed action and promptly submits a report of the action, together with the agency's recommendations and pertinent information including the position of the contractor and the employees, to the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, for review. (See section 4.6(b)(2) of Regulations 29 CFR Part 4).
- 4) Within 30 days of receipt, the Wage and Hour Division approves, modifies, or disapproves the action via transmittal to the agency contracting officer, or notifies the contracting officer that additional time will be required to process the request.
- 5) The contracting officer transmits the Wage and Hour decision to the contractor.
- 6) The contractor informs the affected employees.

Information required by the Regulations must be submitted on SF 1444 or bond paper.

When preparing a conformance request, the "Service Contract Act Directory of Occupations" (the Directory) should be used to compare job definitions to insure that duties requested are not performed by a classification already listed in the wage determination. Remember, it is not the job title, but the required tasks that determine whether a class is included in an established wage determination.

DCAM-13-NC-0112 Attachment D US DOL Wage Schedule.txt  
Conformances may not be used to artificially split, combine, or subdivide  
classifications listed in the wage determination.

**Attachment F**  
Living Wage Act Notice and Fact Sheet



# **“THE LIVING WAGE ACT OF 2006”**

**Title I, D.C. Law No. 16-118, (D.C. Official Code §§ 2-220.01-.11)**

**Effective June 9, 2006, recipients of new contracts or government assistance shall pay affiliated employees and subcontractors who perform services under the contracts no less than the current living wage. Effective January 1, 2010, the living wage rate is \$12.50.**

## **The requirement to pay a living wage applies to:**

- All recipients of contracts in the amount of \$100,000 or more; and, all subcontractors of these recipients receiving \$15,000 or more from the funds received by the recipient from the District of Columbia, and,
- All recipients of government assistance in the amount of \$100,000 or more; and, all subcontractors of these recipients of government assistance receiving \$50,000 or more in funds from government assistance received from the District of Columbia.

**“Contract” means a written agreement between a recipient and the District government.**

**“Government assistance” means a grant, loan or tax increment financing that result in a financial benefit from an agency, commission, instrumentality, or other entity of the District government.**

**“Affiliated employee” means any individual employed by a recipient who received compensation directly from government assistance or a contract with the District of Columbia government, including any employee of a contractor or subcontractor of a recipient who performs services pursuant to government assistance or contract. The term “affiliated employee” does not include those individuals who perform only intermittent or incidental services with respect to the contract or government assistance or who are otherwise employed by the contractor, recipient or subcontractor.**

Certain exceptions may apply where contracts or agreements are subject to wage determinations required by federal law which are higher than the wage required by this Act; contracts for electricity, telephone, water, sewer other services delivered by regulated utility; contracts for services needed immediately to prevent or respond to a disaster or eminent threat to the public health or safety declared by the Mayor; contracts awarded to recipients that provide trainees with additional services provided the trainee does not replace employees; tenants or retail establishments that occupy property constructed or improved by government assistance, provided there is no receipt of direct District government assistance; Medicaid provider agreements for direct care services to Medicaid recipients, provided that the direct care service is not provided through a home care agency, a community residential facility or a group home for mentally retarded persons; and contracts or other agreements between managed care organizations and the Health Care Safety Net Administration or the Medicaid Assistance Administration to provide health services.

Exemptions are provided for employees under 22 years of age employed during a school vacation period, or enrolled as a full-time student who works less than 25 hours per week, provided that other employees are not replaced, and for employees of nonprofit organizations that employ not more than 50 individuals.

**Each recipient and subcontractor of a recipient shall provide this notice to each affiliate employee covered by this notice, and shall also post this notice concerning these requirements in a conspicuous site in the place of business.**

**All recipients and subcontractors shall retain payroll records created and maintained in the regular course of business under District of Columbia law for a period of at least 3 years.**

This is a summary of the “Living Wage Act of 2006”. For the complete text go to:

[www.does.dc.gov](http://www.does.dc.gov) or [www.ocp.dc.gov](http://www.ocp.dc.gov)

**To file a complaint contact: Department of Employment Services  
Office of Wage-Hour**

**64 New York Avenue, N.E., Room 3105, Washington, D.C. 20002  
(202) 671-1880**





## LIVING WAGE ACT FACT SHEET

The “Living Wage Act of 2006,” Title I of D.C. Law 16-18, (D.C. Official Code §§2-220.01-.11) became effective June 9, 2006. It provides that District of Columbia government contractors and recipients of government assistance (grants, loans, tax increment financing) in the amount of \$100,000 or more shall pay affiliated employees wages no less than the current living wage rate.

**Effective January 1, 2010, the living wage rate is \$12.50 per hour.**

Subcontractors of D.C. government contractors who receive \$15,000 or more from the contract and subcontractors of the recipients of government assistance who receive \$50,000 or more from the assistance are also required to pay their affiliated employees no less than the current living wage rate.

“Affiliated employee” means any individual employed by a recipient who receives compensation directly from government assistance or a contract with the District of Columbia government, including any employee of a contractor or subcontractor of a recipient who performs services pursuant to government assistance or a contract. The term “affiliated employee” does not include those individuals who perform only intermittent or incidental services with respect to the government assistance or contract, or who are otherwise employed by the contractor, recipient or subcontractor.

**Exemptions** – The following contracts and agreements are exempt from the Living Wage Act:

1. Contracts or other agreements that are subject to higher wage level determinations required by federal law (i.e., if a contract is subject to the Service Contract Act and certain wage rates are lower than the District’s current living wage, the contractor must pay the higher of the two rates);
2. Existing and future collective bargaining agreements, provided that the future collective bargaining agreement results in the employee being paid no less than the current living wage;
3. Contracts for electricity, telephone, water, sewer or other services provided by a regulated utility;
4. Contracts for services needed immediately to prevent or respond to a disaster or eminent threat to public health or safety declared by the Mayor;
5. Contracts or other agreements that provide trainees with additional services including, but not limited to, case management and job readiness services, provided that the trainees do not replace employees subject to the Living Wage Act;

6. An employee, under 22 years of age, employed during a school vacation period, or enrolled as full-time student, as defined by the respective institution, who is in high school or at an accredited institution of higher education and who works less than 25 hours per week; provided that he or she does not replace employees subject to the Living Wage Act;
7. Tenants or retail establishments that occupy property constructed or improved by receipt of government assistance from the District of Columbia; provided, that the tenant or retail establishment did not receive direct government assistance from the District of Columbia;
8. Employees of nonprofit organizations that employ not more than 50 individuals and qualify for taxation exemption pursuant to Section 501 (c) (3) of the Internal Revenue Code of 1954, approved August 16, 1954 (68A Stat. 163; 26. U.S.C. §501(c)(3));
9. Medicaid provider agreements for direct care services to Medicaid recipients, provided, that the direct care service is not provided through a home care agency, a community residence facility, or a group home for mentally retarded persons as those terms are defined in section 2 of the Health-Care and Community Residence Facility, Hospice, and Home Care Licensure Act of 1983, effective February 24, 1984 (D.C. Law 5-48; D.C. Official Code §44-501); and
10. Contracts or other agreements between managed care organizations and the Health Care Safety Net Administration or the Medicaid Assistance Administration to provide health services.

## **Enforcement**

The Department of Employment Services (DOES) and the D.C. Office of Contracting and Procurement (OCP) share monitoring responsibilities.

If you learn that a contractor subject to this law is not paying at least the current living wage you should report it to the Contracting Officer.

If you believe that your employer is subject to this law and is not paying you at least the current living wage, you may file a complaint with the DOES Office of Wage – Hour, located at 64 New York Ave., NE, Room 3105, (202) 671-1880.

For questions and additional information, contact the Office of Contracting and Procurement at (202) 727-0252 or the Department of Employment Services on (202) 671-1880.

**Please note:** *This fact sheet is for informational purposes only as required by Section 106 of the Living Wage Act. It should not be relied on as a definitive statement of the Living Wage Act or any regulations adopted pursuant to the law.*

**Attachment G**  
First Source Employment Agreement



**Government of the District of Columbia**  
**FIRST SOURCE EMPLOYMENT AGREEMENT**



Contract Number: \_\_\_\_\_

Employer Name: \_\_\_\_\_

Project Contract Amount: \_\_\_\_\_

Employer Contract Award: \_\_\_\_\_

Project Name: \_\_\_\_\_

Project Address: \_\_\_\_\_ Ward: \_\_\_\_\_

Nonprofit Organization with 50 Employees or Less: ☐ Yes ☐ No

This First Source Employment Agreement, in accordance with The First Source Employment Agreement Act of 1984 (codified in D.C. Official Code §§ 2-219.01 – 2.219.05), The Apprenticeship Requirements Amendment Act of 2004 (Codified in D.C. Official Code §§ 2-219.03 and 32-1431) for recruitment, referral, and placement of District of Columbia residents, is between the District of Columbia Department of Employment Services, hereinafter referred to as “DOES”, and \_\_\_\_\_, hereinafter, referred to as EMPLOYER. Under this Employment Agreement, the EMPLOYER will use DOES as its first source for recruitment, referral, and placement of new hires or employees for all new jobs created by the Project. The Employer will hire 51% District of Columbia residents for all new jobs created by the Project, and 35 % of all apprenticeship hours be worked by DC residents employed by EMPLOYER in connection with the Project shall be District residents registered in programs approved by the District of Columbia Apprenticeship Council.

**I. GENERAL TERMS**

- A. Subject to the terms and conditions set forth herein, the EMPLOYER will use DOES as its first source for the recruitment, referral and placement for jobs created by the Project.
- B. The EMPLOYER will require all Project contractors with contracts totaling \$100,000 or more, and Project subcontractors with subcontracts totaling \$100,000 or more, to enter into a First Source Employment Agreement with DOES.
- C. DOES will provide recruitment, referral and placement services to the EMPLOYER, which are subject to the limitations set out in this Agreement.
- D. The participation of DOES in this Agreement will be carried out by the Office of Employer Services, which is responsible for referral and placement of employees, or such other offices or divisions designated by the Office of the Director, of DOES.
- E. This Agreement will take effect when signed by the parties below and will be fully effective for the duration of the Project contract and any extensions or modification to the Project contract.

- F. This Agreement will not be construed as an approval of the EMPLOYER'S bid package, bond application, lease agreement, zoning application, loan, or contract/subcontract for the Project.
- G. DOES and the EMPLOYER agree that, for purposes of this Agreement, new hires and jobs created for the Project (both union and nonunion) include all EMPLOYER'S job openings and vacancies in the Washington Standard Metropolitan Statistical Area created for the Project as a result of internal promotions, terminations, and expansions of the EMPLOYER'S workforce, as a result of this project, including loans, lease agreements, zoning applications, bonds, bids, and contracts.
- H. This Agreement includes apprentices as defined and as amended, in D.C. Law 2-156. D.C. Official Code §§ 32-1401- 1431.
- I. The EMPLOYER, prime subcontractors and subcontractors who contract with the District of Columbia government to perform construction, renovation work, or information technology work with a single contract, or cumulative contracts, of at least \$500,000, let within a 12-month period will be required to register an apprenticeship program with the District of Columbia Apprenticeship Council; and this includes but is not limited to, any construction or renovation contract or subcontract signed as the result of, a loan, bond, grant, Exclusive Right Agreement, street or alley closing, or a leasing agreement of real property for one (1) year or more. In furtherance of the foregoing, the EMPLOYER shall enter into an agreement with its contractors, including the general contractor, that requires that such contractors and subcontractors for the Project participate, in apprenticeship programs for the Project that: (i) meet the standards set forth in Chapter 11 of Title 7 of the District of Columbia Municipal Regulations, and (ii) have an apprenticeship program registered with the District of Columbia's Apprenticeship Council.

## **II. RECRUITMENT**

- A. The EMPLOYER will complete the attached Employment Plan, which will indicate the number of new jobs projected to be created on the Project, salary range, hiring dates, residency status, ward information, new hire justification and union requirements.
- B. The Employer will post all job vacancies in the DOES' Virtual One-Stop (VOS) at [www.jobs.dc.gov](http://www.jobs.dc.gov) within five (5) days of executing the Agreement. Should you need assistance posting job vacancies, please contact Job Bank at (202) 698-6001.
- C. The EMPLOYER will notify DOES, by way of the First Source Office of its Specific Need for new employees for the Project, within at least five (5) business days (Monday - Friday) upon Employers identification of the Specific Need. This must be done before using any other referral source. Specific Needs shall include, at a minimum, the number of employees needed by job title, qualifications, hiring date, rate of pay, hours of work, duration of employment, and work to be performed.
- D. Job openings to be filled by internal promotion from the EMPLOYER'S current workforce do not need to be referred to DOES for placement and referral. However, EMPLOYER shall notify DOES of such promotions.

- E. The EMPLOYER will submit to DOES, prior to commencing work on the Project, the names, social security number, residency status and ward information of all current employees, including apprentices, trainees, and laid-off workers who will be employed on the Project.

### **III. REFERRAL**

- A. DOES will screen applicants and provide the EMPLOYER with a list of applicants according to the Notification of Specific Needs supplied by the EMPLOYER as set forth in Section II (B).
- B. DOES will notify the EMPLOYER, prior to the anticipated hiring dates, of the number of applicants DOES will refer.

### **IV. PLACEMENT**

- A. The EMPLOYER will make all decisions on hiring new employees but will, in good faith, use reasonable efforts to select its new hires or employees from among the qualified persons referred by DOES.
- B. In the event that DOES is unable to refer qualified personnel meeting the Employer's established qualifications, within five (5) business days (Monday - Friday) from the date of notification, from the EMPLOYER, the EMPLOYER will be free to directly fill remaining positions for which no qualified applicants have been referred. Notwithstanding, the EMPLOYER will still be required to hire 51% District residents for all new jobs created by the Project.
- C. After the EMPLOYER has selected its employees, DOES will not be responsible for the employees' actions and the EMPLOYER hereby releases DOES, and the Government of the District of Columbia, the District of Columbia Municipal Corporation, and the officers and employees of the District of Columbia from any liability for employees' actions.

### **V. TRAINING**

- A. DOES and the EMPLOYER may agree to develop skills training and on-the-job training programs; the training specifications and cost for such training will be mutually agreed upon by the EMPLOYER and DOES and will be set forth in a separate Training Agreement.

### **VI. CONTROLLING REGULATIONS AND LAWS**

- A. To the extent that this Agreement is in conflict with any federal labor laws or governmental regulations, the federal laws or regulations shall prevail.
- B. DOES will make every effort to work within the terms of all collective bargaining agreements to which the EMPLOYER is a party.
- C. The EMPLOYER will provide DOES with written documentation that the

EMPLOYER has provided the representative of any collective bargaining unit involved with this Project a copy of this Agreement and has requested comments or objections. If the representative has any comments or objections, the EMPLOYER will promptly provide them to DOES.

**VII. EXEMPTIONS**

- A. All contracts, subcontracts or other forms of government-assistance less than \$100,000.
- B. Employment openings the contractor will fill with individuals already employed by the company.
- C. Job openings to be filled by laid-off workers according to formally established recall procedures and rosters.
- D. Construction or renovation contracts or subcontracts in the District of Columbia totaling less than \$500,000 are exempt from the requirements of Section I(H) and I(I) of the General Terms hereof.
- E. Non-profit organization with 50 or less employees are exempt from the requirements.

**VIII. AGREEMENT MODIFICATIONS, RENEWAL, MONITORING, AND PENALTIES**

- A. If, during the term of this Agreement, the EMPLOYER should transfer possession of all or a portion of its business concerns affected by this Agreement to any other party by lease, sale, assignment, merger, or otherwise this First Source Agreement shall remain in full force and effect and transferee shall remain subject to all provisions herein. In addition, the EMPLOYER as a condition of transfer shall:
  - 1. Notify the party taking possession of the existence of this EMPLOYER'S First Source Employment Agreement.
  - 2. Notify DOES within seven (7) business days of the transfer. This advice will include the name of the party taking possession and the name and telephone of that party's representative.
- B. DOES will monitor EMPLOYER'S performance under this Agreement. The EMPLOYER will cooperate with the DOES monitoring and will submit a Contract Compliance Form to DOES monthly.
- C. To assist DOES in the conduct of the monitoring review, the EMPLOYER will make available to DOES, upon request, payroll and employment records for the review period indicated for the Project.
- D. The Employer will provide DOES additional information upon request.
- E. With the submission of the final request for payment from the District, the EMPLOYER shall:

1. Document in a report to DOES its compliance with the requirement that 51% of the new employees hired by the EMPLOYER for the Project be District residents; or
  2. Submit to DOES a request for a waiver of compliance of the requirement that 51% of the new employees hired by the EMPLOYER the Project be District residents which will include the following documentation:
    - a. Documentation supporting EMPLOYERS good faith effort to comply;
    - b. Referrals provided by DOES and other referral sources; and
    - c. Advertisement of job openings listed with DOES and other referral sources.
- F. The DOES may waive the requirement that 51% of the new employees hired by the EMPLOYER for the Project be District residents, if DOES finds that:
1. A good faith effort to comply is demonstrated by the EMPLOYER; or
  2. The EMPLOYER is located outside the Washington Standard Metropolitan Statistical Area and none of the contract work is performed inside the Washington Standard Metropolitan Statistical Area:
- The Washington Standard Metropolitan Statistical Area includes the District of Columbia, the Virginia Cities of Alexandria, Falls Church, Manassas, Manassas Park, Fairfax, and Fredericksburg; the Virginia Counties of Fairfax, Arlington, Prince William, Loudoun, Stafford, Clarke, Warren, Fauquier, Culpeper, Spotsylvania, and King George; the Maryland Counties of Montgomery, Prince Georges, Charles, Frederick, and Calvert; and the West Virginia Counties of Berkeley and Jefferson.
3. The EMPLOYER enters into a special workforce development training or placement arrangement with DOES; or
  4. DOES certifies that there are insufficient numbers of District residents in the labor market possessing the skills required by the EMPLOYER for the positions created as a result of the Project. No failure by Employer to request a waiver under any other provision hereunder shall be considered relevant to a requested waiver under this Subsection.
- G. Willful breach of the First Source Employment Agreement by the EMPLOYER, failure to submit the Contract Compliance Report, or deliberate submission of falsified data, may be enforced by the DOES through imposition of penalties, including monetary fines of 5% of the total amount of the direct and indirect labor costs of the contract for the positions created by EMPLOYER.
- H. The parties acknowledge that the provisions of E and F of Article VIII apply only to First Source hiring.
- I. Nonprofit organizations with 50 or less employees are exempt from the requirement that 51% of the new employees hired by the EMPLOYER on the Project be District



residents.

J. The EMPLOYER and DOES, or such other agent as DOES may designate, may mutually agree to modify this Agreement.

K. The EMPLOYER's noncompliance with the provisions of this Agreement may result in termination.

**IX. LOCAL, SMALL, DISADVANTAGES BUSINESS ENTERPRISE**

A. Is your firm a certified Local, Small, Disadvantaged Business Enterprise (LSDBE)?  
☐ YES ☐ NO

If yes, certification number: \_\_\_\_\_

**X. APPRENTICESHIP PROGRAM**

A. Do you have a registered Apprenticeship program with the D.C. Apprenticeship Council? ☐ YES ☐ NO

If yes, D.C. Apprenticeship Council Registration Number: \_\_\_\_\_

**XI. SUBCONTRACTOR**

A. Is your firm a subcontractor on this project? ☐ YES ☐ NO

If yes, name of prime contractor: \_\_\_\_\_

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_

\_\_\_\_\_  
Signature Dept. of Employment Services

\_\_\_\_\_  
Signature of Employer

\_\_\_\_\_  
Name of Company

\_\_\_\_\_  
Address

\_\_\_\_\_  
Telephone

\_\_\_\_\_  
E-mail

## EMPLOYMENT PLAN

NAME OF EMPLOYER: \_\_\_\_\_

ADDRESS OF EMPLOYER: \_\_\_\_\_

TELEPHONE NUMBER: \_\_\_\_\_ FEDERAL IDENTIFICATION NO.: \_\_\_\_\_

CONTACT PERSON: \_\_\_\_\_ TITLE: \_\_\_\_\_

E-MAIL: \_\_\_\_\_ TYPE OF BUSINESS: \_\_\_\_\_

DISTRICT CONTRACTING AGENCY: \_\_\_\_\_

CONTRACTING OFFICER: \_\_\_\_\_ TELEPHONE NUMBER: \_\_\_\_\_

TYPE OF PROJECT: \_\_\_\_\_ CONTRACT AMOUNT: \_\_\_\_\_

EMPLOYER CONTACT AMOUNT: \_\_\_\_\_

PROJECT START DATE: \_\_\_\_\_ PROJECT END DATE: \_\_\_\_\_

EMPLOYER START DATE: \_\_\_\_\_ EMPLOYER END DATE: \_\_\_\_\_

**NEW JOB CREATION PROJECTIONS:** Please indicate ALL new position(s) your firm will create as a result of the Project. If the firm WILL NOT be creating any new employment opportunities, please complete the attached justification sheet with an explanation. Attach additional sheets as needed.

JOB TITLE		# OF JOBS F/T P/T	SALARY RANGE	UNION MEMBERSHIP REQUIRED NAME LOCAL#	PROJECTED HIRE DATE
A					
B					
C					
D					
E					
F					
G					
H					
I					
J					
K					

**CURRENT EMPLOYEES:** Please list the names, social security numbers, residency status and ward information of all current employees, including apprentices, trainees, and transfers from other projects, who will be employed on the Project. Attach additional sheets as needed.

[illegible]

**JUSTIFICATION SHEET:** Please provide a detailed explanation of why the Employer will not have any new hires on the Project.